

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

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ENLISTED ADMINISTRATIVE SEPARATIONS

6001. GENERAL

1. The procedures and instructions in this chapter pertain to the administrative separation of Marines before completion of active or obligated service. Unless specifically authorized by separate order, only the reasons contained in this chapter may form the basis for a Marine's separation, whether voluntary or involuntary.
2. Procedures and instructions for separating Marines at expiration of active service or upon completion of obligated service are contained in chapter 1. Disability separating processing is discussed in chapter 8.
3. Mandatory Separation Processing. Throughout this chapter reference is made to a requirement to "process (a Marine) for separation." While discharge is one possible outcome resulting from separation processing, so are retention and suspension of the discharge. "Mandatory processing" means that the commander must initiate the involuntary separation process to the separation authority. This term does not mean that a board hearing is mandatory or that separation of the respondent is necessary

6002. Definitions of common administrative separation terms. See paragraph 1002 for additional definitions.

1. Administrative Separation. Discharge or release from active duty upon or before expiration of enlistment, period of induction, or other required period of service, in the manner prescribed in this Manual, by law, by the Secretary of Defense or the Secretary of the Navy, but specifically excluding punitive separation by the sentence of a general or special court-martial.
2. Bisexual. A person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual and heterosexual acts.
3. Broken Service. Active duty or active duty for training in any branch of military service of the United States broken by any period greater than 24 hours and after completing a minimum of 12 consecutive weeks of active duty or active duty for training, unless such service results in continuous service as defined below.
4. Continuous Service: Enlisted Personnel
 - a. Service in the Regular Navy or Naval Reserve or the Regular Marine Corps or Marine Corps Reserve which is continued by reenlistment "within 3 months" following discharge or release from active duty. A member who is reenlisted on the same day of the month, 3 calendar months from the date of discharge or release from active duty, is reenlisted "within 3 months."
 - b. Reenlistment "within 6 months" following discharge or release from active duty provided the member is classified RE-1, recommended for preferred reenlistment, and holds an MOS listed as a "reenlistable" MOS. A member who

reenlisted on the same day of the month, 6 calendar months from the date of discharge or release from active duty, is reenlisted "within 6 months."

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5. Convening Authority. (1) The separation authority or (2) a commanding officer empowered to convene a special court martial, who has been authorized by the Secretary of the Navy to process a case for final action and who otherwise has the qualifications to act as a separation authority.

6. Counsel. A lawyer qualified and certified under Article 27(b), Uniform Code of Military Justice (UCMJ), assigned to represent a service member during separation processing, or a civilian lawyer retained at the member's expense.

7. Entry-Level Status. Upon enlistment, a member qualifies for entry-level status during: (1) the first 180 days of continuous active military service; or, (2) the first 180 days of continuous active service after a service break following more than 92 days of active service. A member of a Reserve component who was not on active duty or is serving under a call or order to active duty for 180 days or less begins entry-level status upon enlistment in a Reserve component. Entry level status for such a member of a Reserve component terminates as follows: (1) 180 days after beginning training if the member is ordered to active duty for training for one continuous period of 180 days or more; or, (2) 90 days after the beginning of the second period of active duty training, if the member is ordered to active duty for training under a program that splits the training into two or more separate periods of active duty. For the purposes of characterization of service or description of separation, the member's status is determined by the date of notification as to the initiation of separation proceedings. The period of entry level status is not interrupted by unauthorized absence or desertion.

8. General Courts-Martial Convening Authority (GCMCA). Article 22 of the Uniform Code of Military Justice (UCMJ) and paragraph 0120(a) of the manual of the Judge Advocate General defines the GCMCA.

9. Homosexual. A person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts.

10. Homosexual Acts

a. Any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires; and,

b. Any bodily contact that a reasonable person would understand to demonstrate a propensity or intent to engage in an act described in the preceding paragraph.

11. Homosexual Conduct. A homosexual act or a statement by the service member that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted homosexual marriage.

12. Homosexual Marriage or Attempted Marriage. When a member has married or attempted to marry a person known to be of the same biological sex.

13. Illegal Drug Involvement. Wrongful or improper use, possession, manufacture, sale, transfer or distribution of any psychoactive substance to include: amphetamine or similarly acting sympathomimetics; cannabis; cocaine; hallucinogens; inhalants; opiates; phencyclidine (PCP) or similarly acting

arylcylohexylamines; and sedatives, steroids, hypnotics, anxiolytics, or other controlled substances or drug paraphernalia. The term "Controlled Substances" means a drug or other substance included in Schedules I, II, III, MARINE CORPS SEPARATION AND RETIREMENT MANUAL 6002

IV, or V of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236) as updated and published under the provisions of that Act.

14. Propensity. Propensity to engage in homosexual acts means more than an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages in or will engage in homosexual acts.

15. Respondent. A Marine who is the subject of separation proceedings.

16. Separation. A general term which includes dismissal, dropping from the rolls, revocation of an appointment or commission, termination of an appointment, release from active duty, release from custody and control of the Marine Corps, or transfer from active duty to the: IRR, Fleet Marine Corps Reserve, Retired List, Temporary or Permanent Disability List, or Retired Reserve and similar changes in an active or reserve status.

17. Separation Authority. The Secretary of the Navy or an official authorized by the Secretary of the Navy to take final action with respect to a specified type of separation.

18. Separation Processing. Processing is initiated on the date a command receives a written request for separation from a member, or on the date a command delivers a member notice of separation proceedings per section 3 of this chapter. Processing is not completed until the appropriate separation authority takes final action.

19. Sexual Harassment. A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of a person's job, pay, or career; or,

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or,

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive environment.

Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

20. Sexual Orientation. An abstract sexual preference for persons of a particular sex, as distinct from a propensity or intent to engage in sexual acts.

21. Sexual Perversion. Includes:

a. Lewd and lascivious acts.

b. Sodomy.

c. Indecent exposure.

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- d. Indecent act(s) with, or assault on, a person below the age of 16.
- e. Transvestism or other abnormal sexual behavior.
- f. Other indecent act(s) or offense(s).

22. Statement That a Member is a Homosexual or Bisexual, or words to that effect. Language or behavior that a reasonable person would believe was intended to convey the statement that a person engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts.

23. The Secretary. The Secretary of the Navy; includes the Under Secretary of the Navy or an Assistant Secretary of the Navy.

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CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 1: POLICY AND GUIDANCE

6101. POLICY

1. The Marine Corps substantially invests in training every person who enters its ranks. Separation before completion of a period of obligated service represents a loss of investment while requiring increased accessions. Conversely, retaining individuals in the Marine Corps who will not or cannot conform to required standards of conduct, discipline, and performance creates high costs in terms of substandard mission performance, administrative efforts, pay and degradation of morale. Both situations represent an inefficient use of limited resources. Therefore, every reasonable effort must be made to identify, in a timely manner, members who exhibit a likelihood for early separation; and either:

a. Improve those members' chances of retention through counseling, retraining, and rehabilitation; or

b. Separate promptly those members who do not demonstrate potential for further useful naval service, and recoup (pro rata), as provided by applicable regulations, monies expended for bonuses paid and/or education/training dollars paid to a member in return for enlisting, reenlisting, or extending a service obligation when that service is administratively terminated before successful completion.

2. The standards and procedures established within this chapter are intended to achieve consistency of application throughout the Marine Corps based on command responsibility, accountability, and discretion.

3. Release from Active Duty. Commanders will ensure that Marines who meet the criteria for separation under this chapter are processed promptly rather than allowing them to continue on active duty until they reach their normal Expiration of Active Service (EAS) or Expiration of Current Contract (ECC).

4. Transfer to the Individual Ready Reserve (IRR). As a general rule, Marines on active duty who are not qualified to remain on active duty and who meet the criteria for separation under this chapter will be discharged (meaning their military status is completely severed) unless the reason for separation does not affect their eligibility for active duty or future mobilization. The criteria for retaining a Marine in the IRR are in paragraph 6311.3.

6102. PROCESSING TIME GOALS. Once separation action has begun, prompt forwarding, review, and decision in each case is essential. Proceedings are initiated on the date a command receives a written request for separation from a member or on the date a command delivers a member notice of separation proceedings per section 3 of this chapter. The following listed time goals are established for the administrative separations authorized by this chapter. The goals are measured from the date of notification or initiation of a voluntary request until the actual date of separation. Failure to complete an action within the prescribed time in no way bars separation or affects

characterization. Every effort should be made, however, to meet the established goals.

1. Separation Without Board Action. If a board is not required or is waived, separation action should be completed within 15 working days after the Marine received notification of separation. When the initiating command and the separation authority are not located in the same geographical region, processing should be completed within 30 working days.

2. Separation With Board Action. If a board is required, action should be completed within 50 working days after the Marine received notification of separation. When the case is forwarded to the Secretary of the Navy, the case should be sent to the Secretary within 55 working days after the Marine received notification of separation.

6103. PERIODIC EXPLANATION. Each time the Uniform Code of Military Justice (UCMJ) is explained to enlisted members as required by Article 137 of the UCMJ, an explanation will be made of the types of administrative separation; the basis for their issuance; possible characterization of service; the possible effects of characterization upon reenlistment, civilian employment, veterans benefits and related matters; and the possible denial of certain benefits to members who fail to complete at least two years of an original enlistment. This explanation may be done by fact sheet or other document. A summarization of veteran benefits is contained in appendix K. This requirement is a command responsibility, not a procedural entitlement. Failure by a member to receive or to understand such explanations does not create a bar to separation or characterization of service.

6104. PROVIDING INFORMATION DURING SEPARATION PROCESSING

1. During separation processing of all members (except those separated for immediate reenlistment), provide a copy of appendix D to the Marine, which informs the Marine about the Naval Discharge Review Board and the Board for Correction of Naval Records and advises that a discharge under other than honorable conditions, resulting from a period of continuous unauthorized absence of 180 days or more, is a conditional bar to benefits administered by the Department of Veterans Affairs, notwithstanding any action by the Discharge Review Board. A summarization of service benefits is contained in Appendix K.

2. Providing information about these boards is a command responsibility, not a procedural entitlement. Failure by a member to receive and understand the explanation required by this paragraph does not prevent separation or accurate characterization.

6105. COUNSELING AND REHABILITATION

1. Marine Corps policy is that reasonable efforts at rehabilitation should be made before initiation of separation proceedings.

2. Unless separation is mandatory, the potential for rehabilitation and further useful military service will be considered by the separation authority and, where applicable, the administrative board. If separation is warranted,

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3. In cases involving unsatisfactory performance, pattern of misconduct, minor disciplinary infractions, or other bases requiring counseling under paragraph 6105, separation processing may not be initiated until the Marine is counseled concerning deficiencies, and afforded a reasonable opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records. No certain amount of time can be used to define "reasonable opportunity." This must be determined by the commanding officer on a case-by-case basis. The commanding officer must sign adverse page 11 entries. Rehabilitation efforts must include the following and be documented in the Marine's service record:

- a. Written notification concerning deficiencies or impairments;
 - b. Specific recommendations for corrective action, indicating any assistance available;
 - c. Comprehensive explanation of the consequences of failure to successfully take the recommended corrective action; and,
 - d. Reasonable opportunity for the Marine to undertake the recommended corrective action.
- e. Make the following entry as appropriate on page 11 of the service record upon completion of counseling. The Marine will acknowledge by signing the entry. (See MCO P1070.12K, paragraph 4006.3r concerning rebuttal and counter-entry requirements). The Marine's signature acknowledges that counseling has occurred, not that the Marine concurs with the content of the entry. These entries, once properly made, may not be removed by subsequent commanding officers based upon the passage of time or subsequent good performance. The date of the page 11 entry is the date that the Marine was counseled by the commanding officer. Forward a photocopy of the completed page 11 entry and written rebuttal statement, if any, to the CMC (MMSB-20) within 30 days.

(1) Use this entry to warn a Marine who is NOT currently being processed for administrative or judicial action. The purpose of this format is to warn Marines about problems and consequences and to offer an opportunity for improvement.

" Date : Counseled this date concerning the following deficiencies:
_____. Specific recommendations for corrective action are
_____ and to seek assistance, which is available through the
chain of command and _____. Failure to take corrective action
and any further violations of the UCMJ may result in judicial or adverse
administrative action, including but not limited to administrative separation.
I was advised that within 5 working days after acknowledging this entry I may
submit a written rebuttal which will be filed on the document side of the
service record. I choose to _____ /not to _____ make such a statement.

Signature of Marine

Signature of Commanding Officer

" Date : Counseled this date concerning the following deficiencies:
_____. Specific recommendations for corrective action are
_____ and to seek assistance, which is available through the
chain of command and _____. I understand that I am being
processed for the following judicial or adverse administrative action:
_____. I was advised that within 5 working days after
acknowledging this entry I may submit a written rebuttal which will be filed
on the document side of the service record. I choose to _____ /not to _____
make such a statement.

Signature of Commanding Officer

5. A Marine being processed for separation under one of the bases requiring counseling under paragraph 6105 may only be processed if the counseling entry

reasonably relates to the specific basis for separation ultimately recommended.

6106. LIMITATIONS ON SEPARATION ACTION

1. A member may not be separated on the basis of the following:

a. Conduct that has been the subject of military or civilian judicial proceedings (including summary courts-martial) resulting in an acquittal or action having the effect of an acquittal except:

(1) When such action, having the effect of an acquittal, is based on a judicial determination not based on the issue of factual guilt of the respondent;

(2) When the judicial proceeding was conducted in a state or foreign court and separation is in the best interest of the Marine Corps as determined by the Secretary of the Navy on a case-by-case basis; or,

(3) When the acquittal was solely by reason of lack of mental responsibility. Members in this category will be processed for disability separation. When disability separation is not appropriate, process the member for separation in the best interest of the service per paragraph 6214.

b. Conduct that has been the subject of a prior administrative board proceeding in which the separation authority approved the board's finding that the evidence did not sustain the factual allegations. Such conduct may form the basis for separation, however, if the separation authority determines that the finding was materially influenced by fraud or collusion on the part of the respondent or some other person acting on the respondent's behalf.

c. Conduct that has been the subject of a prior administrative separation proceeding resulting in a final determination by a separation authority that the member should be retained, unless:

(1) Subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding;

(2) There is new or newly discovered evidence that was not reasonably available at the time of the prior proceedings; or

(3) The finding has been determined by the separation authority to have been materially influenced by fraud or collusion on the part of the respondent or some other person acting on the respondent's behalf and an administrative board, in a rehearing, recommends separation.

2. A prior court-martial conviction for a serious offense is not a bar to administrative separation processing based on that offense. See subparagraph 1004.4 regarding characterization limitations.

3. Time limitations. No "statute of limitations" exists for administrative separations. Accordingly, a Marine may be processed for separation based on conduct notwithstanding (1) the length of time between the conduct and the notification of separation or (2) the expiration of a statute of limitations for court-martial or nonjudicial punishment.

4. A Marine being considered for administrative separation processing who is otherwise eligible for transfer to the FMCR/retired list will, at his or her request, be allowed to transfer to the FMCR/retired list before initiating administrative separation processing. If the Marine declines to transfer to the FMCR/retired list, the convening authority shall proceed with

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administrative separation processing. If the member does elect, and does transfer to, the FMCR/retired list, he or she may not be recalled to active duty except with the review and approval of the CMC. Provisions to reduce a Marine to a lower grade by the command are contained in the Marine Corps Promotion Manual, Volume 2, Enlisted Promotions (MCO P1400.32C).

a. Requests for retirement/transfer FMCR may also be made at any time after initiation of separation proceedings. If submitted before final action on the proposed separation, the request will be acted upon before final action on the separation. Marines eligible for retirement/transfer FMCR who do not request transfer initially, may still do so after notification that separation has been directed. Submit requests to the CMC (MMSR-2) within 5 working days of notification that separation has been directed for a transfer/retirement date within 30 days of the date separation was directed.

b. If the respondent is being retired/transferred to the FMCR by reason of misconduct, homosexual conduct, or security, then the CMC may direct reduction to the next inferior grade to that in which the respondent is currently serving before transfer. The CMC will determine whether the member should be transferred in the pay grade currently held or first be reduced to the next inferior grade based on unsatisfactory performance in the current grade. If the CMC determines that the member's service in the current pay grade was satisfactory, the member will be retired/transferred to the FMCR in the current pay grade. If the CMC determines that the member did not serve satisfactorily before being transferred to the FMCR/retired list, the member will be reduced one grade. The following criteria will be applied in making this determination:

(1) Nature and severity of the misconduct and its relationship to and effect upon the performance of military duties.

(2) All performance evaluations and other portions of the service record bearing on performance in the current pay grade, and whether the misconduct was known by reporting seniors, and if not, what effect, if any, it might have had on the respondent's record.

(3) Time in current grade and its relationship to the time of the misconduct.

(4) Other relevant matters presented by the record or the respondent.

(5) Conduct by reservists. Conduct by a member of the reserve component, regardless of where committed, may be the basis for separation whether or not the Marine is on active duty, active duty for training, or inactive duty for training status at the time of the conduct. See paragraph 1004.4d.

6107. CHARACTERIZATION OF SERVICE. The separation authority must determine the appropriate character of service once the separation is approved. Commanders initiating separation action must make specific recommendations

based upon the circumstances of the particular case and the guidelines in paragraph 1004 and table 6-1.

6108. RECOUPMENT OF ENLISTMENT/REENLISTMENT BONUSES. Recoupment of unearned portions of enlistment/reenlistment/career status bonuses is directed when an active duty Marine is separated under any reason contained in this chapter

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with the exception of the following: involuntary separations under paragraphs 6202 (general demobilization), 6203.1, 6203.2, and 6203.3 (Convenience of the Government); voluntary separations under paragraphs 6404.2 (immediate reenlistment), 6407 (dependency/hardship), and 6420 (early release from overseas unit).

1. Notice of Recoupment. A Marine who may be subject to recoupment must be so advised before submitting a request for voluntary separation. A warning is contained in figures 6-2 and 6-3.

2. Recoupment in Cases of Homosexual Conduct

a. Homosexual conduct, as defined in paragraph 6002.11, constitutes a basis for recoupment of certain enlistment bonuses (see 37 U.S.C. 308 and 308a) and advanced educational assistance (see 10 U.S.C. 2005) if:

(1) A characterization of service under other than honorable conditions is authorized under paragraph 6207.5;

(2) The homosexual conduct is punishable under the UCMJ; or

(3) The Marine engaged in homosexual conduct (including a statement demonstrating a propensity or intent to engage in homosexual acts) for the purpose of seeking separation.

Under these circumstances, homosexual conduct constitutes a basis for recoupment whether or not the Marine is actually separated with an other than honorable characterization of service or convicted of an offense under the UCMJ. However, the administrative separation board (or the separation authority in cases without a board) must make specific written findings that, during the current term of service, the respondent engaged in homosexual conduct that constitutes a basis for recoupment under (1) - (3) above.

b. In cases involving allegations of homosexual conduct, commanders, counsel, and legal advisors shall consult the relevant statutes and regulations to ensure appropriate notice to the respondent, investigation, and findings by the administrative separation board (or the separation authority).

6109. ELECTRONIC SIGNATURES AND ELECTRONIC RECORD OF PROCEEDINGS

1. The electronic signature of a separation authority is a valid and legally sufficient signature of the separation authority's final action in all involuntary administrative separation proceedings described in this chapter.

2. Electronic records of involuntary administrative separation proceedings described in this chapter, are valid and legally sufficient for all purposes, to include processing, review, separation authority final action and record retention by the Commandant of the Marine Corps (MMSB).

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CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 2: INVOLUNTARY ADMINISTRATIVE SEPARATIONS

6201. This section lists the reasons a commander may recommend involuntary separation of a Marine before the Marine's expiration of current contract and sets up the necessary administrative rules for separating a Marine under any of the reasons given.

1. References. DoD Directive 1332.14 and SECNAVINST 1910.4B.

2. Format. The general bases for separation are identified by the title at the beginning of major numbered paragraphs. For example, "Convenience of the Government" is a general basis for separation. Specific bases for separation are identified in paragraphs under the general bases for separation. For example, "Parenthood" is a specific basis for separation under the general basis "Convenience of the Government." For some general bases such as "Alcohol Abuse Rehabilitation Failure", there are no specific bases. Refer to Section 4 for details on reasons for voluntary separation.

6202. CHANGE IN SERVICE OBLIGATION. Commanding officers may separate Marines when the CMC directs separation as part of a general demobilization or reduction in force. Characterize service as honorable, general (under honorable conditions), or uncharacterized under the rules in table 6-1.

6203. CONVENIENCE OF THE GOVERNMENT. A Marine may be separated for the Convenience of the Government for the reasons set forth below. Characterize service as honorable, general (under honorable conditions), or uncharacterized under the rules in paragraph 1004 and table 6-1.

1. Parenthood. Marines are Marines 24 hours per day, 7 days per week. Specific duties, assignments, or circumstances, not to mention the fundamental mission of the Marine Corps, require all Marines, regardless of marital status, to be responsive to command and Marine Corps needs. When a Marine's parental responsibilities result in repeated absenteeism, interfere with a Marine's effective performance of duty, or preclude present or future availability for worldwide assignment, separation is required unless the Marine can resolve the conflict to the commanding officer's satisfaction. Before initiating separation action, commanding officers must formally counsel the Marine per paragraph 6105 concerning specific deficiencies and give the Marine an opportunity to overcome the noted deficiencies. When the performance of duty still does not conform to commonly acceptable standards, follow the procedures in section 3.

2. Physical Condition Not a Disability

a. Whenever a Marine's performance deteriorates or has an adverse effect on others in the unit, commanding officers and subordinate leaders will try to determine the cause. When the command suspects a physical or mental condition interferes with the Marine's effective performance of duty, the Marine should be referred to the appropriate medical authority. If examination by a medical officer confirms that the Marine is suffering from a physical or mental

condition apparently beyond the individual's control and indicates that the condition is

not a disability, initiate separation proceedings per paragraph 6303 or 6304 as appropriate. Such conditions may include the following:

(1) Obesity. Separation under this basis requires certification by a medical officer or medical board report that the Marine's overweight condition is due to pathological factors, not of a temporary nature, and apparently beyond the Marine's control. See MCO 6100.10B.

(2) Bed-wetting (enuresis).

(3) Sleepwalking.

(4) Chronic air sickness.

(5) Chronic motion sickness.

(6) Pseudofolliculitis Barbae. Refer to MCO 6310.1B, Pseudofolliculitis Barbae, for details or treatment required before initiation of separation action.

(7) Allergy. This includes, but is not limited to, allergy to clothing, boots, bedding, and bee stings, or illness such as asthma and hay fever.

(8) Disqualifying Height. Separation on this basis is appropriate when, after a proper enlistment, a Marine cannot be assigned duties appropriate to grade and MOS due to increased height. Before separation, the commander should investigate reassignment options for the Marine.

(9) Any additional physical condition which interferes with duty, as determined by the commanding officer and medical officer, that is not considered a physical disability.

b. Refusal of Medical Treatment. A Marine may be separated for refusing medical treatment and that refusal interferes with duty. The commander must determine if the refusal is "reasonable" or "unreasonable" and warrants separation based upon the situation and the following considerations.

(1) Navy Medical Publication P-117, The Manual of the Medical Department (MANMED), article 18-22, states that medical, dental, and surgical treatment will not be performed on a mentally competent member who does not consent to the recommended procedure. When a member refuses medical treatment a medical evaluation board must be convened per the MANMED article and the results forwarded to the Physical Evaluation Board (PEB). See chapter 8 regarding the medical board and PEB process. The PEB will make a determination of "reasonable" or "unreasonable" refusal of medical treatment according to SECNAVINST 1850.4D, paragraph 3413. A medical evaluation board and PEB action are necessary because a determination of unreasonable refusal and intentional misconduct/willful neglect will result in denial of Department of Veterans Affairs and Social Security Administration medical treatment for the member in the future.

(2) If the refusal of medical treatment is determined to be reasonable, the member may still be separated at the commander's discretion per this Manual. If unsatisfactory performance of duty or misconduct are not considerations, separation, for physical condition not a disability, may be appropriate with the assignment of reenlistment codes RE-3P or RE-3C.

(3) If the PEB determines that the refusal of medical treatment was "unreasonable" or provides a finding of intentional misconduct/willful neglect, the commander may consider the following:

(a) Administrative separation for unsatisfactory performance per paragraph 6206 or misconduct per paragraph 6210.

(b) Administrative reduction. See MCO P1400.32C regarding nonpunitive reductions relating to professional incompetence and competency review boards.

(c) Characterization of Service. If a finding of intentional misconduct/willful neglect or other negative aspects of a Marine's performance outweigh positive aspects of performance, to include proficiency and conduct average markings, and administrative separation is warranted, the least favorable characterization of service is general under honorable conditions.

(4) Refusing inoculations. Service members are required to submit to required immunizations according to Navy Regulations, article 1144. The medical evaluation board and PEB procedures described in paragraph 6203.2.b(1) are not required for members refusing inoculations. Disciplinary action and separation for orders violations may be appropriate based upon the commander's decision.

c. Separation processing may not be initiated until the Marine has been counseled and allowed an opportunity to correct the deficiency per paragraph 6105. If a member is separated for "unreasonable" refusal of medical treatment, the following items must be included as part of the notification requirements of paragraph 6303:

(1) A reenlistment code of RE-4, not recommended for reenlistment, will be assigned and the member will be discharged and not transferred or eligible for service in the IRR.

(2) A finding of intentional misconduct/willful neglect requires the following notifications:

(a) Assignment of separation code _____ (basis determined).

(b) The member is not disabled and the condition did not occur in the line of duty.

(c) The Department of Veteran Affairs and the Social Security Administration may deny future medical benefits for this condition.

3. Personality Disorder

a. Basis for processing. Separation under this paragraph is authorized only if, due to personality disorder, the Marine's ability to function effectively in the military environment is significantly impaired and if no other basis for separation applies. For example, if separation can be based on another basis, including another basis under Convenience of the Government, misconduct, or unsatisfactory performance, use one of those bases in spite of the existence of personality disorder. Initiate separation proceedings per paragraph 6303 or 6304 as appropriate.

- b. Documentation. Two forms are required in all cases.

(1) Medical. Separation under this paragraph is authorized only if a diagnosis by a psychiatrist or psychologist concludes, under Article 15-23 of the MANMED, that the disorder is so severe that the Marine's ability to function effectively in the military environment is significantly impaired. Personality disorders are described in Axis II of the multiaxial classification in the Diagnostic and Statistical Manual (DSM-IV) of Mental Disorders. Commanders must comply with SECNAVINST 6320.24A and DoD Directive 6409.1 when referring a Marine to a mental health evaluation.

(2) Nonmedical. Written nonmedical evidence must be submitted to show specific examples of how the Marine is unable to function in the Marine Corps. These can be counseling entries on page 11 of the SRB or statements from witnesses.

c. Counseling. Before initiating separation, the command must have counseled the Marine in accordance with paragraph 6105; given the Marine a reasonable opportunity to correct deficiencies; and have documentation of failure to correct those deficiencies. However, counseling is not required if a psychiatrist or psychologist determines that the Marine is an immediate danger to himself or others.

4. Action in lieu of approved punitive discharge. A member may be separated if placed on appellate leave pursuant to 10 U.S.C. 706 and whose punitive discharge is set aside, suspended, remitted, or disapproved during the review process. In this case, separation processing must be based upon an applicable provision of this chapter and may proceed without the member being present. The member, however, must have been notified of the separation processing prior to beginning appellate leave, or be afforded the rights under paragraph 6303 or 6304, as appropriate, and either waive those rights or fail to respond within 30 days of receipt of notification of separation proceedings. Further, the characterization limitations of paragraph 6203 do not apply and characterization will be based upon the guidelines contained in paragraph 1004.

5. Disenrolled Involuntarily from Officer Candidate Program. A member may be separated after being involuntarily disenrolled from an officer candidate program under conditions in which the candidate did not incur, or does not have, any remaining service obligation. (For voluntary disenrollment, see paragraph 6411).

6. Failure or Disenrollment From Lateral School Seat Assignment. A member who reenlisted under MCO 1200.5J, Lateral Move Program, may be separated for failure to comply with an express condition of enlistment/reenlistment; e.g., after failing, or being voluntarily or involuntarily disenrolled from, an MOS school/OJT under conditions not resulting in a service obligation to the member.

6204. DEFECTIVE ENLISTMENT AND INDUCTION. Marines may be separated for the following specific reasons:

1. Minority

a. If a Marine is under age 17, the enlistment is void and the Marine shall be separated. The Marine shall receive an order of release from the custody and control of the Marine Corps. There is no characterization or description of service. The separation will be an entry level separation. The separation authority is the GCMCA.

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b. A Marine who is age 17 shall be separated under the following circumstances unless retained for the purpose of trial by court-martial.

(1) There is evidence that the Marine is under age 18.

(2) The Marine enlisted without the written consent of the Marine's parent or guardian.

(3) An application for the Marine's separation is submitted to the CMC by the parent or guardian within 90 days of the Marine's enlistment.

c. The Marine will be given an entry level separation.

d. The notification procedures in paragraph 6303 shall be used.

2. Erroneous Enlistment/Reenlistment

a. A Marine may be separated on the basis of an erroneous enlistment, induction, reenlistment, or extension of enlistment in the following circumstances, if:

(1) The action would not have occurred had the relevant facts been known by the Marine Corps or had appropriate directives been followed;

(2) The action was not the result of fraudulent conduct on the part of the Marine; and

(3) The defect is unchanged in material respects.

b. Any case coming to a commander's attention which purports to be of this nature shall be investigated and a complete report included in the Marine's service record book.

c. Service is characterized as honorable, or uncharacterized per table 6-1. Initiate separation proceedings following the procedures in paragraph 6303 or 6304 as appropriate.

d. The separation authority is the GCMCA. For Reservists not on active duty, the CG, MCRC (ENLRCTG) is separation authority. If an individual has already sworn in, but fails to ship, or is determined to be ineligible for enlistment and has not yet reported to a MCRD, the CG, MCRC is the discharge authority.

e. For individuals in the Delayed Entry Program (DEP) being separated because of ineligibility for enlistment, the member shall be notified of the proposed separation and the reasons. The member shall be given the opportunity to submit to the separation authority a statement in rebuttal by a specified date (not less than 30 days from the date of delivery). The notice should be delivered personally or sent by certified mail, return receipt requested (or by an equivalent form of notice if such service is not available at an address outside the United States). If the member fails to acknowledge receipt of notice, the individual who mails the notification shall prepare a

Sworn Affidavit of Service by Mail that shall be inserted in the service record along with Postal Service Form 3800. A member is ineligible for enlistment when the member:

(1) No longer meets dependency criteria;

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(2) No longer meets physical or mental qualifications;

(3) Unfavorable ENTNAC/NAC investigation or unfavorable police record is completed subsequent to entry into the DEP;

(4) Adverse security screening occurs; or

(5) Identified as a drug user or alcohol abuser.

3. Fraudulent Entry into the Marine Corps

a. Marines who procure a fraudulent enlistment, reenlistment, induction, or period of active service will be processed for separation unless the fraud is waived or the fraud no longer exists. An enlistment, induction, or period of service is fraudulent when there has been deliberate material misrepresentation, including the omission or concealment of facts which, if known at the time, would have reasonably been expected to preclude, postpone, or otherwise affect the Marine's eligibility for enlistment or induction.

b. The separation authority may waive the Marine's fraud and authorize retention provided the existing defect could have been waived by the commanding general of a recruit depot, or lower authority, during the initial enlistment processing. If the defect could not have been waived by a commanding general of a recruit depot, the case must be sent to the CG, MCRC (ENLRCTG), if the separation authority desires to retain the Marine. See MCO P1100.72 (MPPM, ENLPROC) to identify cases where only the CMC may authorize retention.

c. Refer to MCO P1100.72 (MPPM, ENLPROC) for the retention authority the commanding generals of the recruit depots may exercise. When a fraudulent enlistment waiver is granted, an appropriate administrative entry, citing the waiver letter, will be made in block 37 of the DD Form 1966 (Application for Enlistment). Recruits whose waiver requests are disapproved will be discharged per this chapter.

d. Characterization of service under other than honorable conditions may only be issued when the fraud involves concealment of a prior separation in which service was not characterized as honorable (the administrative board procedure of paragraph 6304 must be used if characterization under other than honorable conditions is desired). In all other cases, the notification procedure of 6303 will be used and service will be characterized as honorable, general (under honorable conditions), or uncharacterized. If the material misrepresentation included preservice homosexual conduct, the procedures in paragraph 6207 shall be applied. See table 6-1 for characterization limitations.

6205. ENTRY LEVEL PERFORMANCE AND CONDUCT

1. A member may be separated while in an entry level status, if the member is unqualified for further service by reason of entry level performance and/or

conduct, as evidenced by incapability, lack of reasonable effort, failure to adapt to the Marine Corps environment, or minor disciplinary infractions.

2. When the separation of a Marine in an entry level status is warranted by unsatisfactory performance and/or minor disciplinary infractions, the member normally should be separated under this paragraph. However, nothing cited in this paragraph precludes separation under another provision of this Manual.

3. A member with broken service may be separated while in indoctrination training for failure to satisfactorily complete such training. When separation of a member for failure to satisfactorily complete indoctrination training is warranted, the member should normally be separated under this paragraph. Nothing cited in this paragraph, however, precludes separation for another reason listed in this Manual.

4. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105 concerning deficiencies and has been afforded an opportunity to overcome those deficiencies as reflected in appropriate counseling and personnel records. This requirement is particularly important because military service is a calling different from any civilian occupation. A Marine should not be separated when this is the sole reason unless there have been efforts at rehabilitation. Such efforts must include the following and be documented in the Marine's service record:

- a. Written notification concerning deficiencies or impairments;
- b. Specific recommendations for corrective action, indicating any assistance available;
- c. Comprehensive explanation of the consequences of failure to successfully take the recommended corrective action; and,
- d. Reasonable opportunity for the Marine to take the recommended corrective action.

5. The discharge will be uncharacterized.

6. Follow the procedures of paragraph 6303.

7. Commanding officers of Marine Corps Districts may discharge Reservists who are members of the DEP or members of the Selected Marine Corps Reserve awaiting initial active duty for training under this provision. Separation will be uncharacterized.

8. Within the parameters of "Entry Level Status" established in paragraph 6002, all personnel administratively separated from recruit training will be processed under this reason except in those limited cases where processing under a more serious basis is appropriate and where discharge characterization under other than honorable conditions is warranted.

6206. UNSATISFACTORY PERFORMANCE. A Marine may be separated if the Marine is unqualified for further service by reason of unsatisfactory performance.

1. Unsatisfactory performance is characterized by:

- a. Performance of assigned tasks and duties in a manner that does not contribute to unit readiness and/or mission accomplishment, as documented in the service record; or,
- b. Failure to maintain required proficiency in grade, as demonstrated by below average proficiency/conduct numerical marks or adverse fitness report markings or comments accumulated in the Enlisted Performance Evaluation System.

2. This reason for separation will not be used for separation of a member in entry level status.
3. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105. If the Marine does not respond to counseling, commanders may initiate separation following the procedures in paragraph 6303 or 6304 as appropriate. Do not make arbitrary or capricious use of this authority to force the separation of Marines who possess the potential to be rehabilitated under the guidelines of paragraph 6105.
4. Characterization will be honorable or general (under honorable conditions) per table 6-1.
5. A Marine may be separated for unsatisfactory performance as follows:
 - a. Unsanitary Habits. The term unsanitary habits includes, but is not limited to, the repeated occurrence of venereal disease infections during the Marine's current enlistment or period of service.
 - b. Unsatisfactory Performance of Duties. A Marine may be separated when it is determined the Marine is unqualified for further service by reason of unsatisfactory performance, as defined in paragraph 6206.1 above. A member may also be separated under this basis for failure to conform to weight standards as a result of apathy or a lack of self discipline.

6207. HOMOSEXUAL CONDUCT

1. Policy

- a. Homosexual conduct is grounds for separation from the Marine Corps under the bases described in 6207.2. Homosexual conduct includes homosexual acts, a statement by a member that demonstrates a propensity or intent to engage in homosexual acts, or a homosexual marriage or attempted marriage. A statement by a member that demonstrates a propensity or intent to engage in homosexual acts is grounds for separation not because it reflects the member's sexual orientation, but because the statement indicates a likelihood that the member engages in or will engage in homosexual acts. A member's sexual orientation is considered a personal and private matter, and is not a bar to continued service under this section unless manifested by homosexual conduct in the manner described in paragraph 6207.2.
- b. 10 U.S.C. 654(a), contains the Congressional findings related to the policy concerning homosexual conduct in the Armed Forces. These findings are as follows:

(1) Section 8 of Article I of the Constitution of the United States commits exclusively to the Congress the powers to raise and support armies, provide and maintain a navy, and make rules for Government and regulation of the land and naval forces.

(2) There is no constitutional right to serve in the Armed Forces.

(3) Pursuant to the powers conferred by Section 8 of Article I of the Constitution of the United States, it lies within the discretion of the

Congress to establish qualifications for and conditions of service in the Armed Forces.

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(4) The primary purpose of the Armed Forces is to prepare for and to prevail in combat should the need arise.

(5) The conduct of military operations requires members of the Armed Forces to make extraordinary sacrifices, including the ultimate sacrifice, in order to provide for the common defense.

(6) Success in combat requires military units that are characterized by high morale, good order and discipline, and unit cohesion.

(7) One of the most critical elements in combat capability is unit cohesion, that is, the bonds of trust among individual service members that make the combat effectiveness of a military unit greater than the sum of the combat effectiveness of the individual unit members.

(8) Military life is fundamentally different from civilian life in that:

(a) The extraordinary responsibilities of the Armed Forces, the unique conditions of military service, and the critical role of unit cohesion, require that the military community, while subject to civilian control, exist as a specialized society; and

(b) The military society is characterized by its own laws, rules, customs, and traditions, including numerous restrictions on personal behavior, that would not be acceptable in civilian society.

(9) The standards of conduct for members of the Armed Forces regulate a member's life for 24 hours each day beginning at the moment the member enters military status and not ending until that person is discharged or otherwise separated from the Armed Forces.

(10) Those standards of conduct, including the Uniform Code of Military Justice, apply to a member of the Armed Forces at all times that the member has a military status, whether the member is on base or off base, and whether the member is on duty or off duty.

(11) The pervasive application of the standards of conduct is necessary because members of the Armed Forces must be ready at all times for worldwide deployment to a combat environment.

(12) The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the Armed Forces in actual combat routinely make it necessary for members of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

(13) The prohibition against homosexual conduct is a long standing element of military law that continues to be necessary in the unique circumstances of military service.

(14) The Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk

to the Armed Forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

(15) The presence in the Armed Forces of persons who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

2. Bases for Separation. A Marine shall be separated under this paragraph if one or more of the following approved findings is made by the separation authority with or without administrative board proceedings:

a. The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts, unless there are further approved findings that:

(1) Such acts are a departure from the member's usual and customary behavior;

(2) Such acts under all the circumstances are unlikely to recur;

(3) Such acts were not accomplished by the use of force, coercion, or intimidation;

(4) Under the particular circumstances of the case, the member's continued presence in the Marine Corps is consistent with the interest of the Marine Corps in proper discipline, good order, and morale; and

(5) The member does not have a propensity or intent to engage in homosexual acts.

b. The member has made a statement that he/she is a homosexual, or words to that effect, unless there is a further approved finding that the member has demonstrated that he/she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. A statement by a service member that he/she is a homosexual, or words to that effect, creates a rebuttable presumption that the service member engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The service member shall be advised of this presumption and given the opportunity to rebut the presumption by presenting evidence demonstrating that he/she does not engage in, attempt to engage in, have a propensity to engage in, or intend to engage in homosexual acts. Propensity to engage in homosexual acts means more than an abstract preference or desire to engage in homosexual acts; it indicates a likelihood that a person engages in or will engage in homosexual acts. In determining whether a member has successfully rebutted the presumption that he/she engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts, some or all of the following may be considered:

(1) Whether the member has engaged in homosexual acts;

(2) The member's credibility;

(3) Testimony from others about the member's past conduct, character, and credibility;

(4) The nature and circumstances of the member's statement;

(5) Any other evidence relevant to whether the member is likely to engage in homosexual acts.

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(This list is not exhaustive; any other relevant evidence may also be considered.)

c. The member has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the persons involved).

3. Inquiry

a. Responsibility

(1) The member's commander is authorized to initiate fact finding inquiries concerning homosexual conduct. A commander may initiate a fact finding inquiry only when he/she has received credible information that there is a basis for discharge. Commanders are responsible for ensuring that inquiries are conducted properly and that no abuse of authority occurs.

(2) A fact finding inquiry may be conducted by the commander personally or by a person he or she appoints. It may consist of an examination of the information reported or a more extensive investigation as necessary.

(3) The inquiry should gather all credible information that directly relates to the grounds for possible separation. Inquiries shall be limited to the factual circumstances directly relevant to the specific allegations.

(4) If a commander has credible evidence of possible criminal conduct, he or she shall follow the procedures outlined in the current version of the Manual for Courts Martial and JAGINST 5800.7C, JAGMAN.

(5) These inquiry provisions do not apply to activities of the Naval Criminal Investigative Service and other Department of Defense criminal investigative organizations that are governed by DoDINST 5505.8.

b. Bases for Conducting Inquiries. A commander will initiate an inquiry only if he or she has credible information that there is a basis for discharge. Credible information exists when the information, considering its source and the surrounding circumstances, supports a reasonable belief that there is a basis for discharge. It requires a determination based on articulable facts, not just a belief or suspicion.

c. A basis for discharge exists if:

(1) The member has engaged in a homosexual act;

(2) The member has said that he or she is a homosexual or bisexual, or made some other statement that indicates a propensity or intent to engage in homosexual acts; or

(3) The member has married or attempted to marry a person of the same sex.

d. Credible information does not exist, for example, when:

(1) The individual is suspected of engaging in homosexual conduct, but there is no credible information, as described, to support that suspicion;

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(2) The only information is the opinions of others that a member is a homosexual;

(3) The inquiry would be based only on rumor, suspicion, or capricious claims concerning a member's sexual orientation; or

(4) The only information known is an associational activity such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals, or marching in a gay rights rally in civilian clothes. Such activity, in and of itself, does not provide evidence of homosexual conduct.

e. Credible information exists, for example, when:

(1) A reliable person states that he or she observed or heard a service member engaging in homosexual acts, or saying that he/she is a homosexual or is married to a member of the same sex;

(2) A reliable person states that he/she heard, observed, or discovered a member make a spoken or written statement that a reasonable person would believe was intended to convey the fact that he/she engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts; or

(3) A reliable person states that he/she observed behavior that amounts to a non-verbal statement by a member that he/she is a homosexual or bisexual (i.e., behavior that a reasonable person would believe was intended to convey the statement that the member engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts).

f. Procedures

(1) Informal fact finding inquiries and administrative separation procedures are the preferred method of addressing homosexual conduct. This does not prevent disciplinary action or trial by court-martial when appropriate.

(2) Commanders shall exercise sound discretion regarding when credible information exists. They shall examine the information and decide whether an inquiry is warranted or whether no action should be taken.

(3) Commanders or appointed inquiry officials shall not ask, and members shall not be required to reveal, whether the member is a heterosexual, a homosexual, or a bisexual. However, upon receipt of credible information of homosexual conduct (as described above), commanders or appointed inquiry officials may ask members if they engaged in such conduct. The member should first be advised of the Marine Corps policy on homosexual conduct and, if applicable, the provisions of Article 31, UCMJ. Should the member choose not to discuss the matter further, the commander should consider other available information. Nothing in this provision precludes questioning a member about

any information provided by the member in the course of the fact finding inquiry or any related proceeding; nor does it provide the member with any basis for challenging the validity of any proceeding or the use of any evidence, including a statement by the member, in any proceeding.

(4) At any point during the inquiry, the commander or appointed inquiry official must be able to explain clearly and specifically which

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grounds for separation he/she is attempting to verify and how the information being collected relates to those specific separation grounds.

(5) A statement by a service member that he/she is a homosexual or bisexual creates a rebuttable presumption that the service member engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The service member shall be given the opportunity to present evidence demonstrating that he/she does not engage in, attempt to engage in, or have a propensity or intent to engage in homosexual acts. The service member bears the burden of proving, by a preponderance of the evidence, that he/she is not a person who engages in, attempts to engage in, or has a propensity or intent to engage in homosexual acts.

g. Legal Effect. The procedures set forth in paragraph 6207.3 create no substantive or procedural rights.

4. Disposition

a. Based on the inquiry described in paragraph 6207.3, the commander must determine whether there is probable cause (a reasonable belief) to believe a basis for administrative separation exists. If the commanding officer determines probable cause exists, the commanding officer shall initiate separation processing.

b. If the commanding officer determines probable cause does not exist, the commanding officer shall terminate the inquiry and any administrative action already initiated.

c. Certain homosexual conduct may constitute both a basis for administrative separation processing and a violation of the UCMJ. The UCMJ requires all allegations of misconduct to be thoroughly investigated. Upon review of the results of the investigation, the cognizant commanding officer has discretion to determine what, if any, disciplinary action is appropriate. The provisions for administrative discharge for homosexual conduct do not preclude disciplinary action under the UCMJ when such action is deemed appropriate by the cognizant commanding officer. In this regard, there is no right on the part of any individual to demand trial by court-martial in lieu of administrative separation processing.

5. Characterization. Characterization of service or description of separation shall be in accordance with the guidance in table 6-1 of this chapter. When the sole basis for separation is homosexual conduct, a characterization under other than honorable conditions may be issued only if such a characterization is warranted under table 6-1 and there is a finding that during the current term of service the member attempted, solicited, or committed a homosexual act in the following circumstances:

a. By using force, coercion, or intimidation;

- b. With a person under age 16;
- c. With a subordinate in circumstances that violate customary military superior/subordinate relationships;
- d. Openly in public view;
- e. For compensation;

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- f. Aboard a military vessel or aircraft; or
 - g. In another location subject to military control under aggravating circumstances having an adverse impact on discipline, good order, or morale comparable to the impact of such activity aboard a vessel or aircraft.
6. Administrative Separation Board Procedures. The administrative discharge board procedures outlined in paragraph 6304 shall be used subject to the following guidance:

a. The administrative separation board shall be informed of the Congressional findings as enumerated in paragraph 6207.1b.

b. In addition to the requirements of paragraph 6319, the administrative separation board shall be guided by the following:

(1) If the board finds one or more of the circumstances authorizing separation as described herein is supported by the evidence, the board shall recommend separation unless the board finds that retention is warranted under the limited circumstances described in paragraph 6207.2a or 6207.2b.

(2) If the board does not find that there is sufficient evidence that one or more of the circumstances authorizing separation as described herein has occurred, the board shall recommend retention unless the case involves another basis for separation of which the member has been duly notified.

(3) The member shall bear the burden of proving throughout the proceeding, by a preponderance of the evidence, that retention is warranted under the limited circumstances described in paragraph 6207.2a or 6207.2b.

(4) Findings regarding whether or not retention is warranted under the limited circumstances described are required if the member clearly and specifically raises such limited circumstances.

7. Separation Authority Action

a. The separation authority shall dispose of a case according to the following provisions:

(1) If the board recommends retention, the separation authority shall take one of the following actions:

(a) Approve the finding and direct retention;

(b) Forward the case to the Secretary of the Navy via the CMC (MMSR-3) with a recommendation that the Secretary separate the member under paragraph 6214.

(2) If the board recommends separation, the separation authority shall take one of the following actions:

(a) Approve the finding and direct separation; or

(b) Disapprove the finding based on one of the following considerations:

1 There is insufficient evidence to support the finding; or

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2 Retention is warranted under the limited circumstances described in paragraph 6207.2a or 6207.2b.

(3) If there has been a waiver of the board proceedings, the separation authority shall dispose of the case in accordance with the following provisions:

(a) If the separation authority determines that there is insufficient evidence to support separation, the separation authority shall direct retention unless there is another basis for separation for which the member has been duly notified; or

(b) If the separation authority determines that one or more of the circumstances authorizing separation as described has occurred, the member shall be separated unless retention is warranted under the limited circumstances described in paragraph 6207.2a or 6207.2b.

8. Limitations. Nothing in these procedures:

a. Limits the authority of the Secretary of the Navy to take appropriate action to ensure that there has been compliance with the provisions of this policy;

b. Requires that a member be processed for separation when a determination is made that:

(1) The member engaged in acts, made statements, or married or attempted to marry a person known to be of the same biological sex for the purpose of avoiding or terminating military service; and

(2) Separation of the member would not be in the best interest of the Marine Corps;

c. Precludes retention of a member for a limited period of time in the interests of national security as authorized by the Secretary of the Navy;

d. Authorizes a member to seek Secretarial review unless authorized in procedures promulgated by the Secretary of the Navy;

e. Precludes separation in appropriate circumstances for another reason as described in this chapter; or

f. Precludes trial by court-martial in appropriate cases.

6208. RESERVED FOR FUTURE USE

6209. ALCOHOL ABUSE REHABILITATION FAILURE

1. A Marine who has been referred to a program of rehabilitation for personal alcohol abuse and/or dependency, may be separated for failure through inability or refusal to participate in, cooperate in, or successfully complete such a program in the following circumstances:

- a. There is a lack of potential for continued naval service; or

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- b. Long term rehabilitation is determined necessary and the Marine is transferred to a civilian medical facility for rehabilitation.

2. Initiate separation proceedings following the procedures in paragraph 6303 or 6304 as appropriate.

3. Characterization is honorable, general (under honorable conditions), or uncharacterized per table 6-1.

4. Nothing in this paragraph precludes separation under other provisions in this Manual. See MCO P1700.24B5300-1A for further information.

6210. MISCONDUCT

1. Whenever a Marine is involved in misconduct, as described in the following paragraphs, commanders shall process the Marine for separation unless rehabilitation and retention are warranted under the guidelines in paragraph 6105. Characterization of service normally shall be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted in some circumstances. For Marines who have completed entry level status, characterization of service as honorable is not authorized unless the Marine's record is otherwise so meritorious that any other characterization clearly would be inappropriate and the separation is approved by the GCMCA. When characterization of service under other than honorable conditions is not warranted for a Marine in entry level status, the separation shall be uncharacterized. Separation processing for a series of minor disciplinary infractions or a pattern of misconduct may not be initiated until the member has been counseled per the guidelines for counseling in paragraph 6105. Counseling per paragraph 6105 and rehabilitation are not required if the basis of separation is commission of a serious offense, a civilian conviction, or a similar juvenile adjudication, or drug abuse. Process per provisions of paragraph 6303 or 6304 as appropriate. Actions on related misconduct separations:

- a. Misconduct involving homosexual conduct shall be processed under paragraph 6207;

- b. Misconduct involving a fraudulent entry shall be processed under paragraph 6204.3;

- c. Offenses involving drug abuse shall be processed for separation by reason of the appropriate drug abuse offense in paragraph 6210.5, as well as other applicable reasons in this Manual; and

d. See MCO P1400.32C Enlisted Promotion Manual regarding nonpunitive reductions relating to professional incompetence and competency review boards.

2. Minor Disciplinary Infractions. A Marine may be separated when there is, in his or her service record book, a documented series of at least THREE minor disciplinary infractions, during the current enlistment, of a nature which have been or would have been appropriately disciplined under Article 15, UCMJ, nonjudicial punishment. When multiple offenses have been the subject of one nonjudicial punishment, they remain separate offenses for the purpose of determining eligibility for processing under this paragraph. If separation of a member in entry level status is warranted solely by reason of minor disciplinary infractions, the processing should be under Entry Level Performance and Conduct. Separation processing may not be initiated until the

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Marine has been counseled per paragraph 6105. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

3. A Pattern of Misconduct

a. A minimum of TWO incidents occurring within one enlistment is required. Misconduct occurring in an extension of an enlistment is considered to be within one enlistment. The infractions may be minor or more serious. There must be discreditable involvement with civil or military authorities or conduct prejudicial to good order and discipline. The misconduct need not have been the subject of NJP or military or civilian conviction. Such incidents include, but are not limited to, an established pattern of minor unauthorized absences; an established pattern of dishonorable failure to pay just debts; or an established pattern of dishonorable failure to contribute adequate support to family members or comply with orders, decrees, or judgments of a civil court concerning support of family members. The incidents of misconduct do not have to be of the same nature.

b. Separation processing may not be initiated until the Marine has been counseled per paragraph 6105. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

4. Sexual Perversion. Sexual perversion (see paragraph 6002.21) is not a specific basis for discharge. Marines involved in acts of sexual perversion shall be processed under paragraph 6210.6 or 6210.7, as appropriate.

5. Drug Abuse

a. Commanders shall process Marines for administrative separation for illegal, wrongful, or improper use, possession, sale, transfer, distribution, or introduction on a military installation of any controlled substance, marijuana, steroids, or other dangerous or illicit drug or other forms of substance abuse (such as designer drugs, fungi, chemicals not intended for human consumption, etc.) as defined in SECNAVINST 5300.28C (paragraph 5.c), and/or the possession, sale, or transfer of drug paraphernalia as defined in SECNAVINST 5300.28C. Commanders shall also process Marines who attempt to engage in any of the aforementioned activities. Evidence obtained from an involuntary urinalysis administered pursuant to an inspection under Military Rule of Evidence in the current version of the Manual for Courts Martial (MCM), or from a search and seizure under Military Rules of Evidence 311-317, or incident to an examination conducted for a valid medical reason may be used to characterize a member's discharge as under other than honorable conditions.

The procedures contained in paragraph 6304 shall be used when separating a Marine under these provisions, unless a characterization of service more favorable than other than honorable is warranted.

b. Except as provided below, all Marines (regardless of pay grade) identified for mandatory processing under the criteria of paragraph 6210.5a will be processed for administrative separation by reason of misconduct, due to drug abuse, on the first offense. Processing is not required if:

(1) The offense has been adjudicated at a general or special court martial, for which the sentence approved by the convening authority includes a punitive discharge (suspended or unsuspended), or

(2) The limitations of paragraph 6106.1 apply.

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c. Self-referral for drug use constitutes confirmation of illegal drug abuse and requires a Marine to be processed for administrative separation. The Voluntary Drug Exemption Program is no longer applicable. However, a Marine's voluntary submission to a DoD treatment and rehabilitation program, and evidence voluntarily disclosed by the Marine as part of the course of treatment in such a program may not be used against the Marine on the issue of characterization of service. This limitation does not apply to:

(1) The introduction of evidence for the purpose of impeachment or rebuttal in any proceeding in which evidence of drug abuse has been first introduced by the Marine; or

(2) The taking of action based on independently derived evidence, including evidence of continued drug abuse after initial entry into a treatment and rehabilitation program.

d. Marines separated for drug abuse will be screened for drug dependency at a Substance Abuse Counseling Center (SACC) and, if diagnosed as drug or alcohol dependent, will be referred to the Department of Veterans Administration (DVA) at the time of separation.

6. Commission of a Serious Offense

a. A Marine may be processed for separation for commission of a serious military or civilian offense under the following circumstances:

(1) The specific circumstances of the offense warrant separation; and

(2) A punitive discharge would be authorized for the same or a closely related offense under the UCMJ.

b. A military or civilian conviction is not required for discharge under this provision.

c. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

7. Civilian Conviction

a. Commanders may process Marines for separation when civilian authorities (foreign or domestic) have convicted a Marine or taken action

which is tantamount to a finding of guilty, including similar adjudication in juvenile proceedings, when:

- (1) the specific circumstances of the offense warrant separation, and
- (2) a punitive discharge would be authorized for the same or a closely related offense under the UCMJ; or
- (3) the sentence by civilian authorities includes confinement for 6 months or more without regard to suspension or probation.

b. Separation processing may be initiated whether or not a Marine has filed an appeal of a civilian conviction or has stated an intention to do so. However, execution of an approved separation should be withheld pending outcome of the appeal or until the time for appeal has passed, unless the Marine has requested separation or the member's separation has been requested

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by the CMC. Such requests must be approved by the Secretary of the Navy who may direct that the member be separated before final action on the appeal.

c. For special provisions regarding characterization of discharge based upon civilian conviction in the case of a Reservist, see paragraph 1004.4d.

d. The notification procedure contained in paragraph 6303 may be used if characterization of service under other than honorable conditions is not warranted.

8. Sexual Harassment

a. Processing for separation is mandatory following the first substantiated incident of sexual harassment (see definition paragraph 6002.19) involving any of the following circumstances:

- (1) Threats or attempts to influence another's career or job for sexual favors;
- (2) Rewards in exchange for sexual favors; or,
- (3) Physical contact of a sexual nature which, if charged as a violation of the UCMJ, could result in a punitive discharge.

b. An incident is considered substantiated when there has been a court-martial conviction, nonjudicial punishment, or the commander determines, based on a preponderance of the evidence, that sexual harassment has occurred.

c. Refer to the procedures in paragraph 6303 or 6304, as applicable. The basis for separation shall be under paragraph 6210.2 (Minor Disciplinary Infractions); 6210.3 (Pattern of Misconduct); or 6210.6 (Commission of a Serious Offense). Counseling per paragraph 6105 is not required for processing a Marine for separation under this paragraph, unless the Marine is processed under paragraph 6210.2 or 6210.3.

9. Participation in Supremacist or Extremist Organizations or Activities

a. Processing for separation is mandatory following the first substantiated incident of misconduct resulting from the member's participation in extremist or supremacist activities which, in the independent judgment of an administrative separation board convening authority, is more likely than

not to undermine unit cohesion or be detrimental to the good order, discipline, or mission accomplishment of the command. Such misconduct must relate to:

(1) Illegal discrimination based on race, creed, color, sex, religion, or national origin; or

(2) Advocating the use of force or violence against any Federal, State, or local government, or any unit or agency thereof, in contravention of Federal, State, or local laws.

b. An incident is considered substantiated when there has been a court martial conviction, nonjudicial punishment, or an administrative separation board convening authority determines, based on a preponderance of the evidence, that the member has engaged in supremacist or extremist conduct.

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c. The basis for separation shall be under paragraph 6210.2 (minor disciplinary infractions); 6210.3 (pattern of misconduct); 6210.6 (commission of a serious offense); or 6214 (separation in the best interest of the service). Note, however, that paragraph 6210.2 and 6210.3 may not be used unless the Marine has been previously counseled concerning misconduct per paragraph 6105.

d. The least favorable characterization is under other than honorable conditions, if an administrative board procedure (paragraph 6304) is used. Characterization is honorable, general (under honorable conditions), or uncharacterized (entry level separation), if the notification procedure (paragraph 6303) is used. Refer to paragraph 6210.2, 6210.3, 6210.6, and 6214 to determine the applicability of paragraphs 6303 and 6304.

6211. NEW ENTRANT DRUG AND ALCOHOL TESTING

1. The enlistment of any person determined to have been dependent on drugs or alcohol at the time of such enlistment shall be voided, and the member shall normally be given an uncharacterized separation. The following guidelines apply:

a. The basis of separation for members found dependent on drugs or alcohol at the time of enlistment shall be a void enlistment (10 U.S.C. 978).

b. Dependency will be determined by a medical officer using appropriate medical/psychiatric criteria.

c. Prepare a DD Form 214 for all individuals separated under this paragraph per section 2 of chapter 1 with the following exceptions:

(1) Enter zeros in all blocks of item 12 for non-prior service individuals. For individuals with prior service, enter zero in blocks a, b, c, and i and complete the remaining portion as appropriate.

(2) Enter "VOID ENLISTMENT" in blocks 23 and 24.

(3) Enter "10 U.S.C. 978" in block 25.

(4) Assign separation code, JFU1.

(5) Assign reenlistment code, RE-3C.

d. A person whose enlistment is voided due to alcohol or drug dependency shall be referred to a civilian treatment facility.

e. This paragraph also applies to officer candidates undergoing initial training in an enlisted status.

2. Members who test positive, but are not found dependent, for drugs or alcohol during an initial entry drug or alcohol test shall be processed for separation per the appropriate provision of paragraph 6204 (defective enlistment and induction). Commanding officers are not precluded in appropriate cases from taking disciplinary action against a member or processing a member for discharge, with or without a characterization, under an alternative basis for separation.

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a. Separation of personnel who refuse to consent to testing or evaluation during initial entry on active duty (IEAD) or who are confirmed positive for illegal drug use (other than marijuana) may not be waived.

b. Personnel confirmed positive for marijuana use alone (except for officer candidates) will be processed for separation unless the GCMCAs of the recruit depots or their delegated authorities waive this provision on a case-by-case basis. Separation of officer candidates for confirmed marijuana use may not be waived.

c. Personnel confirmed positive at a 0.05 blood alcohol level or greater shall be processed for separation unless the GCMCAs of the recruit depots and OCS (in the case of officer candidates) or their delegated authorities waive this provision on a case-by-case basis.

6212. SECURITY. When retention is clearly inconsistent with the interests of national security, a Marine may be separated by reason of security and under conditions and procedures established by the Secretary of Defense. Characterization will be honorable, general (under honorable conditions), under other than honorable, or uncharacterized under the rules in table 6-1. The separation authority is the CMC (MMSR); however, the CMC may refer any particular case to the Secretary of the Navy.

6213. UNSATISFACTORY PARTICIPATION IN THE READY RESERVE. A Marine may be separated for unsatisfactory participation in the Ready Reserve under criteria established in DoD Directive 1215.13, MCO P1001R.1J (MCRAMM), and the Commander, Marine Forces Reserve (MARFORRES). The separation authority is the GCMCA. Characterization of service will conform with paragraph 1004 and the rules of table 6-1.

6214. SEPARATION IN THE BEST INTEREST OF THE SERVICE

1. The Secretary of the Navy, in his discretion, may direct the separation of any Marine before the expiration of that Marine's term of service after determining that such separation is in the best interest of the Marine Corps. For example, the Secretary may use secretarial plenary authority to separate a

Marine whose personal conduct reflects discredit upon the service, adversely affects the good order and discipline of the unit, or adversely affects the Marine's performance of duty. Requests for this type of discharge should only be made in unusual cases where such action is essential in the interest of justice, discipline, and proper administration in the naval service.

2. Requests for separation under this paragraph shall be forwarded to the Secretary of the Navy via the CMC (MMSR-3) for review.

3. Separation under this provision should only be made in unusual cases not covered by any other provisions of this chapter or when a Marine has been processed for separation under any other basis of this chapter and the separation authority, pursuant to paragraph 6309.2~~cb and e~~, disagrees with the administrative board's recommendation for retention. ~~In cases forwarded under paragraph 6309.2b, the basis for separation will be that for which the member was originally processed.~~ In all other cases initiated under this paragraph, the basis for discharge will be under separation in the best interest of the service.

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4. Notification procedures under paragraph 6303 shall be used. The procedures for requesting an administrative separation board, including for a Marine with 6 or more years of service, do not apply. The notification shall state why no other reason for separation under this chapter is appropriate and why separating the Marine is in the best interest of the Marine Corps.

5. Characterization of service will be honorable or general (under honorable conditions).

6. See paragraph 6421 regarding voluntary requests for separation under the secretarial plenary authority.

7. All separations in the best interest of the service shall be submitted to the Secretary or the Secretary's delegated representative for decision.

6215. WEIGHT CONTROL/BODY COMPOSITION FAILURE. When the sole reason for separation is failure to meet weight and body fat standards, and the Marine's performance and conduct otherwise conform with established standards, if separation is warranted, the Marine will be separated under this paragraph.

1. Basis for processing

a. Medical problems: Obesity. Marines with a medically diagnosed condition that precludes or interferes with weight/body fat control may be separated through appropriate medical channels.

b. No medical problems: Weight Control/Body Composition Failure. The following criteria must be met to meet this basis for separation:

(1) The Marine is unqualified for further service;

(2) The Marine failed to meet weight standards under MCO P6100.12
~~6100.3K~~;

(3) The Marine has no medically diagnosed condition precluding or interfering with weight/body fat control;

(4) The Marine made a reasonable effort to conform to Marine Corps weight and body fat standards by adhering to the regimen prescribed by the appropriately credentialed health care provider (ACHCP) and the commander as prescribed in MCO P6100.12 ~~6100.3K~~. A reasonable effort consists of adherence to a reasonable diet combined with a regular physical training regimen and a steady loss of weight/body fat. Processing of Marines who fail to make a reasonable effort will be under paragraph 6206 (unsatisfactory performance of duties), not this paragraph; and

(5) Weight control/body composition failure is the only basis for separation and the Marine's performance and conduct otherwise conform with established standards. This basis will NOT be used if another basis (such as misconduct or unsatisfactory participation or performance) is appropriate.

2. Documentation. The following must be included to support separation:

a. The request for preliminary medical evaluation in enclosure (1) to MCO 6100.3K, completed through the fifth endorsement. An ACHCP must sign the first and fifth endorsements. **The ACHCP must be a medical officer, contract physician, nurse practitioner, or physician's assistant; the signature of a corpsman is NOT sufficient.** The signature block will CLEARLY state the name,

grade, branch of service, medical title, and organization (as appropriate) of the ACHCP who diagnosed the cause of the respondent's deficiency.

b. Weigh-in/Body Composition Progress Chart. If the respondent received an extension beyond the initial assignment, attach a statement from the officer who approved the request, indicating the date approved and length of extension. An ACHCP must reevaluate the Marine 30 days prior to the end of the extension.

3. Counseling (6105). Before initiating separation, the command must counsel the Marine according to paragraph 6105; giving the Marine corrective guidance and a reasonable opportunity to correct deficiencies; and document any failure to correct those deficiencies. PROPER 6105 COUNSELING ABOUT THE WEIGHT/BODY COMPOSITION PROBLEM SHOULD BE RECORDED IN THE SRB ON THE SAME DAY THE MARINE IS ASSIGNED TO THE WEIGHT CONTROL/BODY COMPOSITION PROGRAM. The 6105 counseling is required for administrative discharge, but a page 11 entry is not required to record assignment to the weight control/body composition program for unit diary purposes. The 6105 counseling is different from the counseling required in paragraph 3201.1.3.f of MCO P6100.12 ~~6100.3K~~ when the Marine does not lose weight within 2 weeks (one month for Selected Marine Corps Reserve) of assignment to the weight control/body composition program. Follow the time periods (and extensions) in MCO P6100.12 ~~6100.3K~~ for losing weight. Ensure that command reevaluation is conducted 6 months after the initial assignment to the weight control/body composition program.

4. Characterization. Honorable or general (under honorable conditions) as warranted under paragraph 1004 and Table 6-1. Table 1-1, Rule 8, is not used for this separation.

5. This paragraph will not be used for entry level separation.

6. "Weight control failure" and "body composition failure" (as stated in MCO P6100.12 ~~6100.3K~~) are synonymous. "Weight Control Failure" is used for paragraph 6215 in compliance with Department of Defense standards. In addition, "Weight Control Failure" will be used as the narrative reason in block 28 of the DD Form 214 for Marines separated under this paragraph.

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Table 6-1. Guide for Characterization of Service

	HON	GEN	OTH	UNCHARACTERIZED
Par. 6202 Change in Service Obligation	X 1,5	X 1,5		X
Par. 6203 Convenience of the Government	X 1,5	X 1,5		X
Par. 6204.1a Minor under 17	Order of release from the custody and control of the Marine Corps			
Par. 6204.1b Minor 17 years old				X
Par. 6204.2 Erroneous Enlistment/ Reenlistment	X 1			X
Par. 6204.3 Fraudulent Enlistment	X 1,5	X 1,5	X 6	X
Par. 6205 Entry Level Performance and Conduct				X
Par. 6206 Unsatisfactory Performance	X 5	X 5		
Par. 6207 Homosexual Conduct	X 1,5	X 1,5	X 4	X
Par. 6209 Alcohol Rehab Failure	X 1,5	X 1,5		X
Par. 6210 Misconduct	X 2	X 1,3	X	X 3
Par. 6211 New Entrant Drug/Alcohol Testing				X
Par. 6212 Security	X 1,5	X 1,5	X	X 3
Par. 6213 Unsat Part in Ready Reserve	X 2	X 1,5	X	X
Par. 6214 SECNAV Plenary Authority	X 1,5	X 1,5		X
Par. 6215 Weight Control Failure	X 1,5	X 1,5		

Table 6-1. Guide for Characterization of Service

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Table 6-1. Guide for Characterization of Service -- Continued

NOTES:

1. Authorized unless Marine is in an entry level status.
2. Not authorized unless Marine's record is otherwise so meritorious that any other characterization clearly would be inappropriate.
3. Authorized only if OTH is not warranted.
4. Authorized only under the limited circumstances described in paragraph. 6207.5.
5. Authorized in accordance with the guidance in paragraph 1004.
6. Authorized only when the fraud involves concealment of a prior separation in which service was not characterized as honorable.

Table 6-1. Guide for Characterization of Service -- Continued

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CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART A: INITIATING COMMAND ACTION

6301. GENERAL. This section establishes the administrative procedures for separation and provides detailed procedures for administrative separation boards. In light of the unique nature and requirements of the Reserve component and problems inherent in contacting members of the SMCR and IRR, the Commander, MARFORRES may supplement these procedures and figures with procedures and figures that facilitate the separation process yet ensures fairness to Reserve Marines.

6302. INITIATION OF SEPARATION PROCESSING

1. When a Marine's performance or conduct falls within any of the reasons within section 2 and all required command attempts at leadership and rehabilitation of the Marine have been unsuccessful, the commanding officer should initiate separation processing, subject to the specific requirements found in this chapter. At the command level, the process involves identification of a particular case, notification to the Marine, and preparation of a recommendation to the separation authority with evidence supporting the recommendation. Marines must be processed for all reasons for which minimum criteria are met. However, separation authorities must choose the most appropriate reason when actually effecting the separation.

2. Notification letters and command recommendations will be signed personally by the commanding officer. During the commanding officer's official absence, such correspondences will be signed "Acting" by the officer temporarily succeeding to command. By direction signatures are not authorized. However, inspector-instructors and site commanders are authorized to sign notification letters and command letters of recommendation for discharge on behalf of Reserve commanding officers when the Reserve commanding officer is not available for signature, but concurs in the action or recommendation.

3. Before initiating separation processing the command should take the following steps as well as consulting the checklist at figure 6-2.

a. Step One: Review limitations on separation. Review paragraph 6106 and determine if separation is precluded.

b. Step Two: Determine the Marine's status. Determine precisely the status of the Marine since status and basis for separation can determine the separation authority, the nature of separation, and the rights afforded to the Marine.

(1) Active Reserve (if Reserve SMCR or IRR; if SMCR obligor or non-obligor);

(2) Amount of active and inactive service; and

(3) Proximity to expiration of active service, current contract, obligated service, and eligibility for transfer to the FMCR or retirement.

(a) Holding beyond release date. A Marine may not be held on active duty involuntarily beyond his or her release date for administrative discharge. See paragraph 1008. Similarly, a member of the IRR or SMCR may not be held beyond ECC or EOS for administrative discharge.

(b) Marine eligible or within two years of eligibility for retirement or transfer to the FMCR. See paragraph 6106 and 6307.

(4) Eligibility of SMCR Marine to transfer to the IRR.

(a) Mandatory participants in the SMCR. An SMCR member with a mandatory participation requirement ("obligor") may be retained involuntarily in the SMCR for administrative discharge. See MCRAAM paragraph 3301. Do NOT transfer such a Marine to the IRR without MARFORRES approval.

(b) Non-mandatory participants in the SMCR. An SMCR member without a mandatory participation requirement ("non-obligor") and not subject to a separate written agreement to train (SWAT, MCRAAM paragraph 3102) CANNOT be retained involuntarily in the SMCR for administrative separation. See MCRAAM paragraph 3301.2b. If such a Marine facing administrative discharge requests transfer to the IRR, such transfer must be granted. The SMCR command must then contact MARFORRES (SJA) and MCRSC (Special Actions Division) so that MCRSC can initiate proceedings to separate the member from the IRR.

c. Step Three: Review limitations on characterization. Review paragraph 1004.4. Especially important are paragraphs 1004.4a and 1004.4b (prior service and pre-service activities) and 1004.4d (conduct in the civilian community by a reservist not in a duty status).

d. Step Four: Identify the separation authority. Review paragraph 6307.

e. Step Five: Drug and alcohol dependency. Evidence of alcohol or drug dependence requires that the respondent be evaluated before the case is referred to a board or forwarded to the separation authority. See MCO P5300.12A for evaluation, counseling, and treatment requirements.

6303. NOTIFICATION PROCEDURES

1. The procedures and requirements outlined in this paragraph are applicable under any specific reason for separation contained in section 2.

2. When a member is processed on the basis of multiple reasons for separation, the following guidelines apply to procedural requirements, limitations on characterization of service, or description of separations:

a. The requirements for each reason will be applied to the extent practicable.

b. If a reason for separation, stated in the notice of proposed action, requires processing under the Administrative Board procedure, process per paragraph 6304. See Table 6-2 for bases requiring administrative board procedures.

c. If more than one reason for separation is approved, the guidance on characterization that provides the greatest latitude may be applied.

d. When there is any conflict between a specific requirement applicable to one reason and a general requirement applicable to another reason, the specific requirement shall be applied.

e. If a conflict in procedures cannot be resolved, the procedures most favorable to the respondent shall be used.

f. If the separation authority approves two or more bases for separation, the authority shall further indicate the primary single basis to appear on the member's DD Form 214.

3. Notification Requirements. If there is evidence of alcohol or drug dependence, the respondent must be evaluated before the case being referred to a board or forwarded to the separation authority. Refer to MCO P5300.12A for evaluation, counseling, and treatment requirements.

a. Notice. A commanding officer must provide written notice to any Marine being recommended for separation. Sample letters of notification and acknowledgment forms are provided in figure 6-2. Commands may develop their own procedures; however, such written notice shall include the following:

(1) Each of the specific reasons for separation in section 2 which forms the basis of the proposed separation, including the circumstances upon which each action is based and a reference to the applicable provisions of this chapter;

(2) Whether the proposed separation could result in discharge, release from active duty to a Reserve component, transfer from the Selected Reserve to the IRR, release from custody or control of the naval services, or other form of separation;

(3) The least favorable characterization of service or description of separation authorized for the proposed separation, and the characterization recommended by the commanding officer;

(4) If the Marine is FMCR/Retired List eligible and has refused to request transfer to the FMCR/Retired List under paragraph 6106.3, the respondent's notification letter shall include a statement reflecting such refusal and acknowledging the respondent's understanding that, if separation is approved, he/she may lose all retainer/retired pay and benefits;

(5) A statement of the Marine's right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents shall be summarized;

(6) A statement of the Marine's right to submit statements;

(7) A statement of the Marine's right to consult with counsel per paragraph 6303.3b, and a statement that it is in the Marine's best interest to consult with counsel before waiving any rights;

(8) A statement of the right to request an administrative board if the Marine has 6 or more years of total active and inactive service;

(9) A statement of the right to waive the rights afforded in paragraph 6303.3a(6) through 6303.3a(9), after being afforded a reasonable opportunity to consult with counsel and that failure to respond shall constitute a waiver of these rights;

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(10) If the respondent is in civil confinement, absent without authority, in a Reserve component not on active duty, or upon transfer to the IRR, the relevant notification procedures in paragraph 6303.4 apply; and

(11) The notification requirements outlined in this paragraph do not apply when the Marine is processed for separation by reason of the Convenience of the Government for disability and the character of service is based upon average proficiency and conduct markings.

b. Counsel. A respondent has the right to consult with a lawyer qualified counsel, or non-lawyer counsel before returning the acknowledgement of rights. "Qualified Counsel" is a trial or defense counsel certified under Article 27b of the UCMJ, or a civilian attorney authorized to practice law.

(1) A respondent has the right to consult with qualified counsel when the notification procedure is initiated, except when all of the following conditions are met:

(a) The respondent is away from or deployed outside the United States, or attached to a vessel away from its overseas home port, or attached to a shore activity remote from judge advocate resources;

(b) No qualified counsel is assigned and present at the vessel, unit, or activity; and

(c) The commanding officer does not anticipate having access to qualified counsel from another vessel, unit, or activity, for at least the next 5 days if qualified counsel is assigned and present on another naval vessel, unit, or activity located in the same geographic area where the Marine's vessel, unit, or activity is located, or will be located within the next 5 days. It is considered that, for purposes of this Manual, the commanding officer has access to qualified counsel unless that counsel is currently absent from duty station; i.e. leave, or TAD outside the immediate geographic area; and

(d) The commanding officer determines that the requirements or needs of the Marine Corps warrant processing before qualified counsel will be available.

(2) Non-lawyer counsel shall be appointed whenever qualified counsel is not available. An appointed non-lawyer counsel shall be a commissioned officer with no prior involvement in the circumstances leading to the basis of the proposed separation, and no involvement in the separation process itself. The non-lawyer counsel shall be encouraged to consult by telephone or by any other means with any available judge advocate regarding any legal issues relevant to the case. When a non-lawyer counsel is appointed, the appointing letter shall contain an explanation by the commanding officer setting out in detail why qualified counsel is unavailable and why the requirements or needs of the Marine Corps warrant processing before qualified counsel will be available. A copy of the appointing letter will be attached to each copy of the written notice of separation processing.

(3) The Marine may also consult with a civilian counsel retained at the respondent's own expense. The fact that a respondent indicates to the commanding officer that the respondent will be consulting, or has consulted with a civilian counsel does not relieve the obligation of the commanding officer to furnish military counsel. Consultation with civilian counsel shall not delay orderly processing in accordance with this Manual.

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c. Response. The respondent shall be provided a reasonable period of time, but not less than 2 working days to respond to the notice. An extension may be granted upon a timely showing of good cause by the respondent. The respondent's selection as to each of the rights in paragraph 6303, shall be recorded and signed by the respondent and respondent's counsel, if counsel is not waived, subject to the following limitations:

(1) If notice by mail is authorized and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and an appropriate notation shall be recorded on a retained copy of the appropriate form.

(2) If the respondent declines to respond as to the selection of rights, such declination shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, the selection of rights will be noted and an appropriate notation as to the failure to sign will be made.

(3) The respondent's commanding officer shall forward a copy of the notice and the respondent's reply to the separation authority. Where appropriate, the commanding officer should also make recommendations to the separation authority, pursuant to paragraph 6106.2, as to the pay grade in which a respondent eligible for transfer to the Fleet Marine Corps Reserve/retired list should be allowed to transfer.

4. Additional Notification Requirements

a. Marine Confined by Civil Authorities

(1) If separation proceedings under section 2 have been initiated against a respondent confined by civil authorities, the case may be processed in the absence of the respondent. When a board is appropriate or required, there is no requirement that the respondent be present at the board hearing. Rights of the respondent before the board can be exercised by counsel on behalf of the respondent.

(2) The following additional requirements apply:

(a) The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate. The notice shall be delivered personally to the respondent or sent by certified mail, return receipt requested (or by an equivalent form of notice if such service is not available for delivery by U.S. Mail at an address outside the United States). If the member refuses to acknowledge receipt of notice, the individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail which will be inserted on the document side of the member's service record together with PS Form 3800.

(b) If delivered personally, receipt shall be acknowledged in writing by the respondent. If the respondent does not acknowledge receipt or

refuses to accept delivery, the person attempting delivery shall make an appropriate note on the form.

(c) The notice shall state that the action has been suspended until a specific date (not less than 30 days from the date of delivery) to give the respondent the opportunity to exercise the rights in the notice. If the respondent does not reply by such date, the separation authority shall treat the failure to respond as a waiver of rights and take appropriate

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action. Once the respondent makes an election of rights, action need not remain suspended.

(d) The name and address of the military counsel appointed for consultation shall be specified in the notice.

(e) If the case involves entitlement to an administrative board, the respondent shall be notified that the board will proceed in the respondent's absence and that the case may be presented on respondent's behalf by counsel for the respondent.

b. Certain Members of Reserve Components

(1) Members of Reserve components not on active duty:

(a) If separation proceedings under section 2 have been initiated against a member of a Reserve component not on active duty, the case may be processed in the absence of the member in the following circumstances:

1 At the request of the member;

2 If the member does not respond to the notice of proceedings on or before the suspense date provided therein; or

3 If the member fails to appear at a hearing without good cause.

(b) The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate.

(c) If the action involves a transfer to the IRR, the member will be notified that the characterization of service upon transfer to the IRR will constitute the characterization of service upon discharge after completing the military service obligation unless the following conditions are met:

1 The member takes affirmative action to affiliate with the SMCR, and

2 The member satisfactorily participates as a member of the SMCR for a period of time which, when added to any prior satisfactory service during this period of obligated service, equals the period of obligated service.

(2) Upon transfer to the IRR, the member will be notified of the following:

(a) The characterization of service upon transfer from active duty or the SMCR to the IRR and that the characterization of service upon completion of the military service obligation in the IRR will be the same.

(b) The date upon which the military service obligation will expire.

(c) The date by which the member must submit evidence of satisfactory completion of the conditions set for in paragraph 6303.4b(1)(c).

(3) If the member submits evidence of completion of the conditions specified in paragraph 6303.4b(1)(c), but the separation authority proposes to

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discharge the member with a characterization of service as general (under honorable conditions), the notification procedure at paragraph 6303 shall be used. An administrative board is not required at this point notwithstanding the member's years of service.

(4) If the member does not submit such information on or before the date specified in the notice, no further proceedings are required. The characterization of service is the same as the characterization of service upon transfer from active duty or the SMCR to the IRR.

(5) The following requirements apply to the notice required in paragraphs 6303.4b(1) and 6311.3a:

(a) Reasonable effort should be made to furnish copies of the notice to the member through personal contact by a representative of the command. A written acknowledgment of the notice shall be obtained.

(b) If the member cannot be contacted or refuses to acknowledge receipt of the notice, the notice shall be sent by certified mail, return receipt requested (or by an equivalent form of notice, if such service is not available for delivery by U.S. Mail at an address outside the United States) to the most recent address furnished by the member as an address for receipt or forwarding of official mail. If the member refuses to acknowledge receipt of notice, the individual who mails the notification shall prepare a Sworn Affidavit of Service by Mail to be inserted on the document side of the member's service record together with PS Form 3800.

(6) Per 10 U.S.C. 12685, no member of a Reserve component may be discharged under other than honorable conditions unless that member is separated under the approved findings of a board of commissioned officers. If a member of a Reserve component, as a respondent, is separated under the approved findings of an administrative board which had one or more members who were not commissioned officers, the respondent will be discharged under honorable conditions. Characterization may be under other than honorable conditions if the member consents to or waives administrative discharge proceedings or a court-martial or a board.

c. Reimbursement Requirement. In those cases that may be subject to a reimbursement requirement for recoupment of advance education assistance costs, bonuses, or special pays, the respondent must be advised of such requirement before making a decision on an involuntary separation resulting from alleged misconduct. Failure to provide such advisement, however, shall not constitute grounds for avoiding a reimbursement requirement unless otherwise expressly provided by law or superior regulation.

1. Notice. If an administrative board is required, the member shall be notified in writing per the example in figure 6-3 by the member's commanding officer of the following matters:

a. The basis of the proposed separation, including the circumstances upon which the action is based and reference to the applicable reason for separation.

b. Whether the proposed separation could result in discharge, release from active duty to a Reserve component, transfer from the SMCR to the IRR, 6304 MARINE CORPS SEPARATION AND RETIREMENT MANUAL

release from the custody and control of the Marine Corps, or other form of separation.

c. The least favorable characterization of service or description of separation authorized for the proposed separation.

d. The respondent's right to consult with counsel per paragraph 6304.3 and that it is in the Marine's best interest to consult with counsel before waiving any rights.

e. The right to obtain copies of documents that will be forwarded to the separation authority supporting the basis of the proposed separation. Classified documents may be summarized.

f. The respondent's right to request a hearing before an administrative board.

g. The respondent's right to present written statements to the separation authority in lieu of a hearing.

h. The respondent's right to representation at the administrative board by counsel per paragraph 6304.3.

i. The right to representation at the administrative board by civilian counsel at the respondent's own expense.

j. The right to appear in person before the board.

k. The right to make a sworn or unsworn statement before the board subject to the rights accorded under Article 31, UCMJ.

l. The right to challenge voting members of the board or the legal advisor for cause.

m. The right to examine evidence presented by the board, cross-examine witnesses appearing before the board, submit evidence before the board, and make a final argument before the board.

n. The right to waive the rights in paragraph 6304.1d through 6304.1m.

o. That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes a waiver of the rights in paragraph 6304.1d through 6304.1m, and

p. Failure to appear without good cause at a hearing constitutes waiver of the right to be present at the hearing.

2. Additional Notice Requirements

a. If separation processing is initiated on the basis of more than one reason in section 2 and at least one basis for separation entitles the respondent to a hearing before an administrative separation board, the requirements of paragraph 6304.1 apply to all proposed reasons for separation.

b. If the respondent is in civilian confinement, absent without authority, in a Reserve component not on active duty, or upon transfer to the IRR, the relevant notification procedures in paragraph 6303.4, 6311.3a, and 6312 apply.

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c. The notification requirements in paragraph 6303 shall be used when characterization of service as general (under honorable conditions) is authorized and the member is processed for separation by reason of Convenience of the Government or disability and the characterization is not based on proficiency and conduct markings.

d. In those cases that may be subject to a reimbursement requirement for recoupment of advance education assistance costs, bonuses, or special pays, the respondent must be advised of such requirement before making a decision on an involuntary separation resulting from alleged misconduct. Failure to provide such advisement, however shall not constitute grounds for avoiding a reimbursement requirement unless otherwise expressly provided by law or superior regulation.

e. If the respondent is serving in the pay grade of E-4 or above and to administratively separated with an other than honorable characterization of service, the respondent shall be administratively reduced to pay grade E-3, such reduction to become effective upon separation.

3. Counsel

a. A respondent has the right to consult with counsel per paragraph 6303.3b, before electing or waiving any rights under paragraph 6304.1d through 6304.1m.

b. If a hearing is requested, the respondent shall be represented by qualified counsel appointed by the convening authority, or by individual counsel of the respondent's own choice, if that counsel is determined to be reasonably available.

(1) The member may request a qualified counsel who is assigned duties as defense counsel at the servicing command, or as defense counsel at the Navy or Marine Corps command at or nearest to the site of the Administrative Board, and within 100 miles of the board proceeding (using the Official Table of Distances). The determination of reasonable availability is within the discretion of the requested counsel's commanding officer; that decision is final.

(2) Unless otherwise directed, appointment of a qualified counsel of a Marine's own choice relieves the previously assigned counsel. If respondent so requests in writing and if the interests of fair procedure so require, the convening authority may authorize the previously assigned counsel to continue to represent the Marine. Approval is within the discretion of the convening authority and that decision is final.

c. The respondent shall have the right to consult with civilian counsel of the respondent's own choice and may be represented at the hearing by that or any other civilian counsel, all at the respondent's own expense. Exercise by the respondent of this right shall not waive any of the respondent's other rights to counsel. Consultation with civilian counsel shall not unduly delay administrative separation board proceedings. If undue delay appears likely, the convening authority may require the respondent to proceed without the desired civilian counsel. In this event, the convening authority will set forth the full circumstances in the record and will appoint available military counsel for the respondent or will permit the respondent to be represented by reasonably available military counsel of the respondent's choice.

d. Nonlawyer counsel may not represent a respondent before an administrative separation board unless:

(1) The respondent expressly declines appointment of counsel qualified under Article 27(b)(1) of the UCMJ and requests a specific nonlawyer counsel; or

(2) The separation authority assigns nonlawyer counsel as assistant counsel.

4. Response to Notice. The respondent shall be given a reasonable period of time, but not less than 2 working days, to respond to the notice. An extension may be granted upon a timely showing of good cause. The selection of the respondent as to each of the rights in paragraph 6304.1d through 6304.1m, and applicable provisions referenced in paragraph 6304.2, shall be recorded and signed by the respondent and respondent's counsel, subject to the following limitations:

a. If notice by mail is authorized and the respondent fails to acknowledge receipt or submit a timely reply, that fact shall constitute a waiver of rights and a notation shall be recorded on a retained copy of the appropriate form.

b. If the respondent declines to respond as to the selection of rights, such refusal shall constitute a waiver of rights and an appropriate notation will be made on the form provided for respondent's reply. If the respondent indicates that one or more of the rights will be exercised, but declines to sign the appropriate form, a notation as to the failure to sign will be made.

5. Waiver. A respondent entitled to an administrative board may request a conditional waiver after a reasonable opportunity to consult with counsel per paragraph 6304.3a. A conditional waiver is a statement initiated by the respondent waiving the right to a hearing contingent upon receiving a favorable characterization of service, but normally no higher than general (under honorable conditions).

a. Conditional waivers may be granted on a case-by-case basis per paragraph 6308.1b.

b. Separation authorities may disapprove requests for conditional waivers per paragraph 6308.1b. The separation authority may also delegate authority to disapprove requests for conditional waivers, regardless of basis, to the convening authority. Those units which report to HQMC for discharge authority are hereby delegated the authority to disapprove requests for conditional waivers, regardless of the basis.

c. In all cases in which the separation authority is CMC or the Secretary of the Navy, conditional waivers will be disapproved without referral to CMC unless the GCMCA (or convening authority for units which report to HQMC) specifically supports the requested waiver.

6305. COMMAND RECOMMENDATION

1. Once the notification requirements contained in paragraph 6303 and 6304 have been met, and provided the commanding officer desires to continue separation processing, the commanding officer must forward the recommendation

for separation, copies of the appropriate notification, the Marine's acknowledgment and necessary supporting documentation to the separation authority via the normal chain of command. The commanding officer's recommendation will bear significant weight, provided the requirements of this chapter and separate Marine Corps directives (when applicable) have been observed. It must include a specific recommendation for:

- a. Discharge or retention; and

- b. The characterization of service and type of discharge.

The commanding officer need not restate what is evident within enclosed documentation, but should strive to present a concise "snapshot" of the case amplifying unique aspects when necessary. Though such recommendations will lend themselves to a general format, commanding officers must ensure that the specific content accurately reflects the circumstances of the case being considered.

2. Supporting documentation may take the form of existing official records or written statements from personnel familiar with some aspect of the case. This includes, but is not limited to:

a. SRB Pages. Pages 3, 11, 12, 13 (if applicable), and Record of Service often are valuable supporting documents, but should be submitted only if germane. When administratively more practical, data within the SRB can be incorporated into the commanding officer's recommendation. For example, average duty proficiency and conduct marks may be submitted vice page 23 or Record of Service.

b. Training Records/Related Documents. Separations which relate to performance or remedial programs such as weight control or personal appearance require specific actions and administrative procedures. Refer to the MCO for the specific program. Documentation must demonstrate substantial compliance with the intent of any such program.

c. Supporting Statements. In most cases before initiation of separation processing, Marines have been involved in leading, counseling, and assisting the Marine concerned. Statements from these NCO's, SNCO's, and officers are typically very helpful to the separation authority in deciding a Marine's case.

d. Information Directly Supporting Reason for Separation. Investigation reports, police reports, or any other documentation directly relating to the primary reason for separation must be forwarded as part of any recommendation. If a recommendation includes a report of investigation or statements gathered by the Naval Criminal Investigative Service (NCIS), and the CMC or the Secretary of the Navy is the separation authority, include the report as an enclosure. If the separation authority is other than the CMC, do not include NCIS reports or statements, since these documents cannot be filed in OMPF's. Identification of the report or statement as a reference to the commanding officer's letter recommending separation will suffice.

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART B: SEPARATION AUTHORITY ACTION

6306. GENERAL. To properly examine the case of a Marine being recommended for discharge, the separation authority has several basic concerns. First, the proceedings must be thoroughly reviewed to ensure procedural and legal completeness with paramount focus directed towards ensuring that the Marine has been afforded the opportunity to exercise all rights due a respondent. Along the same line, the discharge package should be processed expeditiously in accordance with the time processing goals. Next, the separation authority will review the circumstances involved in the proposed discharge to determine whether the facts meet the criteria for discharge contained within this chapter. Should separation be warranted, the separation authority will ascertain the appropriate characterization of service per the facts and other guidance provided in this chapter.

6307. SEPARATION AUTHORITIES

1. The separation authority for separations under this chapter is the Marine officer having general court-martial authority (GCMCA) over the respondent, or that officer's temporary successor in command, or as designated in figure 6-1 except:

a. When the authority is specifically limited in section 2 to the CMC or the Secretary of the Navy;

b. When a specific provision of this chapter or separate Marine Corps order or directive authorizes another separation authority;

c. When the member is being processed for involuntary separation and has 18 years or more total active military service (sanctuary period, i.e., within 2 years of becoming eligible for military retired or retainer pay), the separation authority is the DC (M&RA). Determinations of "No Further Service" will not be made for Regular enlisted Marines who have entered the sanctuary period. However, the DC (M&RA) may direct the Marine's command to convene an administrative separation board (providing the command a copy of the Marine's complete OMPF pursuant to paragraph 2800.5d and 2800.6b of the Marine Corps Manual and 5 U.S.C. Section 552a(b)(1)), and process the Marine for administrative separation per chapter 6, section 3, of the MARCORSEPMAN in order to identify substandard performers or unqualified Regular enlisted Marines ineligible for further service who are within the sanctuary period;

d. The involuntary separation of Reservists on active duty (other than for training) who are within 2 years of becoming eligible for retired pay or retainer pay under a purely military retirement system must be approved by the Secretary of the Navy (10 U.S.C. 12686); or

e. When a separation authority specifically delegates authority for certain separations, subject to the limitations in paragraph 6307.2.

Tables 6-2 and 6-3 identify the separation authorities for involuntary and voluntary separation, respectively.

2. ~~Officers exercising GCMCA may, Commanding generals may,~~ at their discretion, delegate to any ~~general~~ officer within their command the authority to take action subject to guidance in this Manual on any recommendation or request submitted under this chapter in which retention, separation under honorable conditions, or general, under honorable conditions, or entry level separation is recommended. Commanding generals electing to exercise subordinate separation authority under this paragraph will appoint such authority by letter and include the extent and limitation to authority being delegated and any additional guidelines relative to such delegation.

a. The commanding general at either Marine Corps recruit depot may further extend their delegation to the Commanding Officer, Recruit Training Regiment, for recruits only.

b. The CMC may delegate separation authority to the Commanding General, Marine Corps Combat Development Command (MCCDC), for voluntarily or involuntarily disenrolled officer candidates. The Commanding General, MCCDC, may delegate that authority to a general officer directly supervising Officer Candidates School. That general officer may in turn delegate the authority to the Commanding Officer, Officer Candidates School.

3. The Commanding General, Fleet Marine Forces Atlantic, is the separation authority for any matter under this chapter involving Marines of Marine Corps Security Forces for any case normally acted upon by an officer having general court-martial authority.

4. When an administrative board finds that the preponderance of the evidence supports one or more of the bases for separation contained in the notification, but recommends retention and the convening authority (who is the normal separation authority) does not agree, the sole separation authority is the Secretary of the Navy. Paragraph 6309.2 provides more specific guidance.

6308. SEPARATION AUTHORITY REVIEW

1. The initial review of any recommendation or request for separation under this chapter is normally conducted by specified personnel on the separation authority's staff. It is essential that personnel assigned such responsibilities be well-versed on all separation procedures. Upon receipt, cases are screened per this paragraph.

a. Compliance with Prescribed Directives. This review should ensure that the package is physically and administratively complete (i.e., all enclosures are attached and all specific requirements of this chapter met). If not, initiate immediate corrective action. Table 6-2 is provided to assist in reviewing involuntary separations. For specific requirements, refer to the appropriate paragraph in section 2. If neither an administrative board nor judge advocate's review is required as indicated below, refer the case to the separation authority for decision.

b. Administrative Board Required. Upon completion of the screening for completeness in paragraph 6308.1a and when a board is required, follow the detailed procedures in part C of this section. When a Marine conditionally waives the right to a board subject to receipt of no less than a general

(under honorable conditions) discharge per paragraph 6304.5, the separation authority is not obligated to approve the request. If the circumstances of the case are such that the least favorable characterization authorized is clearly not warranted (a higher characterization is appropriate), the separation authority may approve the conditional waiver per paragraph 6304.5. If the least favorable characterization may be warranted, requests for conditional waivers should be disapproved, the case referred to a board, and the Marine given the opportunity to exercise rights under paragraph 6304. The conditional waiver is intended as an administratively expeditious procedure for those cases in which the least favorable characterization authorized is clearly not warranted. The conditional waiver is not to be used as a plea bargaining device by Marines to obtain a characterization of service higher than truly deserved or as a means to request retention or any other conditional benefits.

c. Legal Review

(1) In the following cases, the record of proceedings shall be reviewed by a judge advocate, or civilian attorney employed by the Navy or Marine Corps, before action by the separation authority:

(a) When an administrative board has been held and characterization of service under other than honorable conditions is recommended;

(b) When an administrative board has been held and the respondent identifies specific legal issues for consideration by the separation authority; and

(c) When action is taken to vacate a previously suspended separation and the respondent identifies specific legal issues for consideration by the separation authority.

(2) The original or a signed copy of the review will be attached as a permanent part of the record of proceedings. The form and content will be as required by the separation authority. Normally a typed, stamped, or printed statement that the proceedings have been reviewed and found sufficient in law and fact is adequate. If the respondent has raised specific legal issues, the review will comment on the merits of the issues raised. If the proceedings are not found to be correct in law and fact, the review shall set forth the facts and reasoning leading to such a determination, and recommend corrective action, if appropriate.

2. Upon completion of the appropriate review, the recommendation should be forwarded to the separation authority for a decision.

6309. SEPARATION AUTHORITY FINAL ACTION. The final action of the separation authority shall be recorded in writing.

1. Without Administrative Board

a. The separation authority shall determine whether the allegations in the notification of the basis for separation are substantiated by a preponderance of the evidence. If not, the Marine will be retained.

b. If the separation authority determines that there is sufficient factual basis for separation, the separation authority may direct:

(1) Retention;

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(2) Separation for a specific reason contained in the notice of separation proceedings and listed in section 2; or

(3) Suspended separation per the guidance in paragraph 6310.

(4) At the discretion of the CMC, if the Marine is FMCR/Retired List eligible, suspend separation to afford the respondent the opportunity to request transfer to the FMCR/Retired List within 30 days.

c. The following factors may be considered on the issue of retention or separation, depending on the circumstances of the case:

(1) The seriousness of the circumstances forming the basis for initiation of separation proceedings, and the effect of the member's continued retention on military discipline, good order, and morale.

(2) The likelihood of continuation or recurrence of the circumstances forming the basis for initiation of separation proceedings.

(3) The likelihood that the member will be a disruptive or undesirable influence in present or future duty assignments.

(4) The ability of the member to perform duties effectively in the present and in the future, including potential for advancement or leadership.

(5) The Marine's rehabilitative potential.

(6) The Marine's entire military record, including:

(a) Past contributions to the Marine Corps, assignments, awards and decorations, evaluation ratings, and letters of commendation;

(b) Letters of reprimand or admonition, counseling records, records of nonjudicial punishment, records of conviction by court-martial, and records of involvement with civilian authorities;

(c) Any other matter deemed relevant based upon the specialized training, duties, and experience of persons entrusted by this chapter with recommendations and decisions on the issue of separation or retention.

d. Adverse matter from a prior enlistment or period of military service, such as records of nonjudicial punishment and convictions by court-martial, may be considered only when such records have a direct and strong probative value in determining whether separation is appropriate. The use of such records shall normally be limited to those cases involving patterns of conduct manifested over a period of time. Isolated incidents and events that are remote in time normally have little value in determining whether administrative separation is appropriate.

(1) Adverse matter from a prior enlistment or period of military service shall not be used to characterize the service of a Marine who is administratively separated.

(2) If adverse matter from a prior enlistment or period of military service is considered on the issue of retention or separation, the record

shall include a statement that such matter was not considered by the separation authority on the issue of characterization.

2. Action by the Separation Authority With an Administrative Separation Board

a. If the board finds that a preponderance of the evidence supports one or more of the alleged reasons for separation and recommends separation, the separation authority may take one of the following actions:

- (1) Approve the board's findings and recommendations; or
- (2) Approve the board's findings, but modify the recommendation by one or more of the following actions, when appropriate:
 - (a) Approve the separation, but suspend execution as provided in paragraph 6310;
 - (b) Approve the separation, but disapprove suspension of the separation;
 - (c) Change the recommended characterization of service to one more favorable, or to an appropriate uncharacterized description of separation;
 - (d) At the discretion of CMC, if the Marine is FMCR/retired list eligible, approve the separation, but suspend execution to afford the respondent the opportunity to request transfer to the FMCR/retired list within 30 days; or
 - (e) Change the board's recommendation concerning transfer to the IRR.
- (3) Approve the board's findings but disapprove the board's recommendation and retain the Marine.

b. If the board finds that a preponderance of the evidence supports one or more of the alleged reasons for separation, but then recommends retention, the separation authority may:

- (1) Approve the board's findings and recommendations; or
- (2) Submit the case to the Secretary of the Navy recommending separation for one of the specific reasons which the board found supported by the preponderance of the evidence with a characterization of service as honorable or general (under honorable conditions). The specific reason(s) for separation will be those that the board found were supported by the preponderance of the evidence and approved by the convening authority; separation authority must specify the evidence of record relied upon in reaching the conclusion; or
- (3) If the Marine is eligible for and requests voluntary transfer to the FMCR/Retired List, recommend a retirement pay grade per paragraph 6106.4.

c. If the board finds that a preponderance of the evidence does not support one or more of the reasons for separation alleged and recommends retention, the separation authority may:

- (1) Approve the board's findings and recommendations; or

(2) If the findings of the board are clearly contrary to the substantial weight of the evidence in the record, submit the case to the Secretary of the Navy recommending separation. The basis for separation will be separation in the best interest of the service. The separation authority must specify the evidence of record relied upon in reaching the conclusion that a preponderance of the evidence of record supports the reasons for separation alleged; or

(3) If the Marine is eligible for transfer to the FMCR/retired list, recommend a retirement pay grade per paragraph 6106.4.

6310. SUSPENSION OF SEPARATION

1. Suspension

a. Except for discharge by reason of fraudulent enlistment or homosexual conduct, a separation may be suspended for a specified period of not more than 12 months by the separation authority or higher authority if the circumstances of the case indicate a reasonable likelihood of rehabilitation. Only the separation authority who directs discharge in a case (or a higher authority) may suspend an approved separation. The following general guidance shall pertain to suspension of separation:

(1) Retaining individuals in the Marine Corps who will not or cannot conform to acceptable standards of conduct, discipline, and performance creates a high cost in terms of substandard mission performance, administrative efforts, pay and degradation of morale.

(2) Unless separation is mandatory, the potential for rehabilitation and further useful service shall be considered by the separation authority and, where applicable, the administrative board. If separation is warranted despite the potential for rehabilitation, consideration should be given to suspension of the separation, if authorized under the provisions of this Manual.

(3) Counseling and rehabilitation efforts are a prerequisite to initiation of separation proceedings only insofar as expressly set forth under specific requirements for separation.

b. During the period of suspension, the member shall be afforded an opportunity to meet appropriate standards of conduct and duty performance.

c. Unless sooner vacated or remitted, execution of the approved separation shall be remitted upon completion of the probationary period, upon termination of the member's enlistment or period of obligated service, or upon decision of the separation authority that the goal of rehabilitation has been achieved.

2. During the period of suspension if further grounds for separation under this chapter arise or the Marine fails to meet appropriate standards of conduct and performance, one or more of the following actions may be taken:

a. Disciplinary action;

b. New administrative action; or

c. Vacation of the suspension and execution of the separation.

3. Before vacation of a suspension, the Marine shall be notified in writing of the basis for the action and shall be afforded the opportunity to consult with counsel and to submit a statement in writing to the separation authority.

The respondent shall be provided a reasonable period of time, but not less than 2 working days, to act on the notice. If the respondent identifies specific legal issues for consideration by the separation authority, the matter shall be reviewed by a judge advocate before final action by the separation authority.

6311. ADMINISTRATIVE ACTION AFTER DECISION

1. If the separation authority directs separation on the basis of more than one reason, the separation authority shall designate the most appropriate basis as the primary reason for reporting purposes.

2. If separation or suspension is directed, the separation authority shall assign a characterization or description of service in accordance with the guidance in section 1 and under the specific reason for separation in section 2.

3. The separation authority shall make a determination as to whether the respondent should be retained in the IRR as a mobilization asset to fulfill the respondent's total military obligation, except when characterization under other than honorable conditions is directed or the Marine is separated on the basis of homosexual conduct, misconduct, drug trafficking, defective enlistment, or when there are medical reasons why the respondent would not be available to meet mobilization requirements. This determination applies in cases involving separation from active duty or from the Selected Marine Corps Reserve. The following is applicable when the separation authority determines that a respondent should be retained in the IRR.

a. Upon transfer to the IRR, the member will be notified of the following:

(1) The characterization of service upon transfer from active duty or the Selected Marine Corps Reserve to the IRR, and that the characterization of service upon completion of the military service obligation in the IRR will be the same.

(2) The date upon which the military service obligations will expire.

(3) The date by which the member must submit evidence of satisfactory completion of the conditions set forth in paragraph 6303.4b(1)(c).

b. If the Marine submits evidence of completion of the specified conditions but the separation authority proposes to discharge the Marine with a characterization of service less than honorable, use the notification procedures in paragraph 6303. An administrative board is not required at this point regardless of the Marine's years of service.

c. If the member does not submit such information on or before the date specified in the notice, no further proceedings are required. The characterization of service is the same as the characterization of service upon transfer from active duty or the Selected Marine Corps Reserve to the IRR.

4. Commanders who approve recommendations for separation should, whenever possible, designate a specific date for separation and direct the separating

unit to immediately report the separation date as a new ECC via a unit diary entry.

5. Final action of the separation authority must be recorded. After final action in cases where a Marine receives an approved unsuspended separation, all papers shall be forwarded to the CMC (MMSB-20) for inclusion in their OMPF. In cases where an approved separation is suspended, forward all papers to the CMC (MMSB) for inclusion in the OMPF if the suspension is later vacated.

6. Refer to MCO P1070.12K (IRAM) for permissible service record entries when an administrative separation has been suspended or a respondent has been retained despite board findings that one or more allegations are supported.

7. Recoupment. The separation authority should initiate recoupment of reenlistment bonuses, advance educational assistance, etc., by using the procedures in the DoD Financial Management Regulation, Volume 7A.

8. When a Marine serving in pay grade E-4 or above is administratively separated with an other than honorable characterization of service, the Marine shall be administratively reduced to pay grade E-3, such reduction to become effective upon separation.

6312. SEPARATION OF MARINES BEYOND MILITARY CONTROL BY REASON OF UNAUTHORIZED ABSENCE

1. Determination of Applicability. If the GCMCA or higher authority determines that separation is otherwise appropriate under this chapter, a member may be separated without return to military control in one or more of the following circumstances:

a. Absent without authority after receiving notice of initiation of separation processing;

b. When prosecution of a member who is absent without authority appears to be barred by the Statute of Limitations, Article 43, UCMJ and the statute has not been tolled (exhausted) by any of the conditions set out in Article 43(d), UCMJ;

c. When a member who is an alien is absent without leave and appears to have gone to a foreign country where the United States has no authority to apprehend the member under a treaty or other agreement.

2. Notice. Before execution of the separation under paragraph 6312.1b or 1c, the Marine will be notified of the imminent action by certified mail, return receipt requested (or by an equivalent form of notice if such service by U.S. Mail is not available for delivery at an address outside the United States) to the member's last known address or to the next of kin under regulations prescribed by the DoN. The notice shall contain the matter set forth in paragraph 6303 or 6304, as appropriate, and shall specify that the action has been suspended until a specific date (not less than 30 days from the date of mailing) in order to give the respondent the opportunity to return to military control. If the respondent does not return to military control by such date, the separation authority shall treat the failure to respond as a waiver of rights and take appropriate action.

6313. SEPARATION OF MARINES PENDING CONCURRENT DISCIPLINARY/ADMINISTRATIVE AND DISABILITY PROCEEDINGS. See paragraph 8508.

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Table 6-2. Guide For the Review of Separation Packages

Specific Reason for Separation	Specific Authority	NOTES										Separation Authority
		1	2	3	4	5	6	7	8	9	10	
		<u>CONVENIENCE OF THE GOVERNMENT</u>										
Parenthood	Par. 6203.1	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
Physical Condition Not a Disability	Par. 6203.2	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
Personality Disorder	Par. 6203.3	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
Involuntary Disenroll from Officer Candidate Program	Par. 6203.5	Y	Y	Y		X	X	X	X	Y	Y	CG, MCRC or CG, MCCDC
Fail/Disenroll Lat School	Par. 6203.6	Y	Y	Y		X	X	X	X	Y	Y	GCM Authority
All other CoG	As Specified	Y	Y	Y		Y	Y	X	X	Y	Y	CMC or GCM Authority
		<u>DEFECTIVE ENLISTMENT</u>										
Minority	Par. 6204.1	Y	Y	Y		Y	Y			Y		CMC or GCM Authority
Erroneous Enlistment/ Reenlistment	Par. 6204.2	Y	Y	Y		Y	Y	X	X	Y	Y	CMC or GCM Authority
Fraudulent Enlistment	Par. 6204.3	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or GCM Authority
		<u>ENTRY LEVEL</u>										
Entry Level Performance or Conduct	Par. 6205	Y	Y	Y	Y	Y	Y			Y		CMC or GCM Authority

Table 6-2. Guide For the Review of Separation Packages

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Table 6-2. Guide For the Review of Separation Packages - Continued

Specific Reason for Separation	Specific Authority	NOTES										Separation Authority
		1	2	3	4	5	6	7	8	9	10	
<u>UNSATISFACTORY PERFORMANCE</u>												
Unsanitary Habits	Par. 6206.5a	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
Unsatisfactory Performance of Duty	Par. 6206.5b	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
<u>HOMOSEXUAL CONDUCT</u>												
Homosexual Conduct	Par. 6207	Y	Y	Y		Y	Y	Y	Y	Y	Y	CMC or GCM Authority
<u>ALCOHOL ABUSE</u>												
Alcohol Rehab Failure	Par. 6209	Y	Y	Y		Y	Y	X	X	Y	Y	CMC or GCM Authority
<u>MISCONDUCT</u>												
Minor Discp Infractions	Par. 6210.2	Y	Y	Y	Y	Y	Y	#	#	Y	Y	CMC or GCM Authority
Pattern of Misconduct	Par. 6210.3	Y	Y	Y	Y	Y	Y	#	#	Y	Y	CMC or GCM Authority
Drug Abuse	Par. 6210.5	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or GCM Authority
Commission of Serious Off.	Par. 6210.6	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or GCM Authority
Civilian Conviction	Par. 6210.7	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or GCM Authority
Sexual Harassment	Par. 6210.8	Y	Y	Y		Y	Y	Y	Y	Y	Y	CMC or GCM Authority
<u>NEW ENTRANT DRUG AND ALCOHOL TESTING</u>												
New Entrant Drug and Alcohol Testing	Par. 6211											CMC or GCM Authority
		Y	Y	Y		Y	Y	X	X	Y	Y	

Table 6-2. Guide For the Review of Separation Packages - Continued

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Table 6-2. Guide For the Review of Separation Packages - Continued

Specific Reason for Separation	Specific Authority	NOTES										Separation Authority
		1	2	3	4	5	6	7	8	9	10	
		<u>SECURITY</u>										
Security	Par. 6212	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or SecNav Authority
		<u>UNSATISFACTORY PARTICIPATION IN THE READY RESERVE</u>										
Unsat Participation in Ready Res	Par. 6213	Y	Y	Y		Y	Y	#	#	Y	Y	CMC or GCM Authority
		<u>SECRETARIAL PLENARY AUTHORITY</u>										
Secretarial Plenary Authority	Par. 6214	Y	Y	Y		Y	Y			Y	Y	SecNav
		<u>WEIGHT CONTROL FAILURE</u>										
Weight Control Failure	Par. 6215	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority
Unsat Perform of Duties	Par. 6206.5b	Y	Y	Y	Y	Y	Y	X	X	Y	Y	CMC or GCM Authority

LEGEND

Y - Yes.

X - Only if Marine has 6 or more years of active and inactive service.

- Only if Marine has 6 or more years of active and inactive service or the Marine is notified that an other than honorable discharge is the least favorable characterization that can be received.

NOTES:

1. Marine must be notified of the proposed discharge action, the general and specific basis, factual circumstances, and the type of discharge certificate that may be issued. (MARCORSEPMAN, paragraph 6303)

2. Marine must be given the opportunity either to submit a statement in rebuttal to the proposed discharge action or decline to make a statement. (MARCORSEPMAN, paragraph 6303)

Table 6-2. Guide For the Review of Separation Packages - Continued

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Table 6-2. Guide For the Review of Separation Packages - Continued

NOTES - Continued:

3. Marine must be notified of and explained to his or her understanding the purpose and scope of the Naval Discharge Review Board and the Board for Correction of Naval Records. (MARCORSEPMAN, paragraph 6104)
4. Marine must be afforded a reasonable opportunity to overcome his or her deficiencies after being notified and counseled. SRB, page 11 entry must summarize counseling conducted. (MARCORSEPMAN, paragraph 6105)
5. Marine must be given the opportunity to consult with a judge advocate before exercising or waiving any of the Marine's rights. (MARCORSEPMAN, 6303 or 6304)
6. Marine must be advised that it is in their best interest to consult with a judge advocate before waiving any of his or her rights. (MARCORSEPMAN, paragraph 6303 or 6304)
7. Marine must be afforded the right to present his or her case before an administrative separation board with the advice and assistance of counsel. (MARCORSEPMAN, paragraph 6303 or 6304)
8. Marine must be afforded and explained the rights of the respondent concerning administrative separation board proceedings. (MARCORSEPMAN, paragraph 6303 or 6304)
9. Commander must refer Marine's case, together with his or her recommendations and all evidence, to the separation authority.
10. Separation package must be reviewed per paragraph 6308.1c when an administrative board has recommended separation under other than honorable conditions, and when an administrative board has been held and the respondent identifies specific legal issues for consideration by the separation authority. For Marines with 18 or more years of service, paragraph 6307.1c applies.

Table 6-2. Guide For the Review of Separation Packages - Continued

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CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 3: ADMINISTRATIVE PROCEDURES

PART C: ADMINISTRATIVE SEPARATION BOARD. See Appendix L, Involuntary Administrative Discharge Outline and Checklist.

6314. CONVENING AUTHORITIES. An administrative separation board as required by this chapter shall be convened in writing by any commander having special court-martial convening authority, or by any other commanding officer or officer in charge when specifically authorized to do so by a superior authority who is a Marine commander having general court-martial jurisdiction. When a board is convened under delegated authority, the order appointing the board will contain specific reference to the source of such delegated authority. Additionally, authority to convene administrative separation boards is specifically delegated to those units delineated in figure 6-1 provided they exercise special court-martial convening authority. Not all convening authorities are separation authorities. See paragraph 6307 for the definition of a separation authority.

6315. COMPOSITION

1. Members

a. The convening authority shall appoint to the administrative board at least three commissioned/warrant or staff noncommissioned officers of the Armed Forces of the United States of America (or Reserve components thereof). Enlisted personnel appointed to the board shall be in the pay grade of E-7 or above and be senior to the respondent. At least one member of the board will be in the pay grade of O-4 or above and a majority shall be commissioned or warrant officers. When the respondent is an active duty member, the senior member must be on the active duty list of the service. When no active duty-list officer is reasonably available, the convening authority may substitute a Reserve officer designated for duty in the Active Reserve (AR) Program who has served on continuous active duty for more than 12 months immediately before appointment to the board.

b. If the respondent is an enlisted member of a Reserve component or holds an appointment as a Reserve commissioned or warrant officer, the board shall include at least one Reserve commissioned officer as a voting member. Voting members shall be senior to the respondent's Reserve grade. If the respondent is a member of a Reserve component and an other than honorable discharge is authorized by this Manual, all board members shall be commissioned officers. Characterization may be under other than honorable conditions if the member consents to or waives administrative discharge proceedings or a court-martial or a board.

c. The convening authority shall ensure that the opportunity to serve on administrative boards is given to women and minorities. The mere appointment or failure to appoint a member of such a group to the board, however, does not provide a basis for challenging the proceeding.

d. Unless at least three voting members of the board are present, no business other than declaring a recess or adjournment shall be transacted by

the board. If a voting member will be absent for more than a short period of time and the member's absence reduces the voting membership present to fewer than three members, the convening authority will be advised and will appoint (an) additional member(s) to ensure that at least three voting members of the board are present during the conduct of all business by the board.

e. The board, in the absence of a voting member, may proceed if at least three voting members are present and the senior member present is a major or higher. Where a new member of the board has been appointed (i.e., following a successful challenge against a former member), or where a member of the board who has been temporarily absent returns, that part of the proceedings conducted may be orally summarized in open session by the recorder, or the summarized record of that part of the proceedings conducted in absence shall be examined by that member and that examination noted in the record. The appointment of a new member, or the temporary absence of a member, does not preclude that member's full participation in the deliberations of the board relating to its findings of fact, opinions, and recommendations.

f. Attendance at the proceedings of an administrative separation board becomes the primary duty of a member. No member shall fail to attend at the appointed time unless prevented by illness, ordered away, or excused by the convening authority.

g. If any of the above prescribed mandatory requirements for the composition of a board cannot be met in a particular case from the officer personnel locally available, the convening authority will notify the CMC (MMSR-3) and request appropriate instructions. Locally includes officers from higher headquarters in the chain of command of the convening authority and units of other services geographically co-located with the convening authority. Convening authorities should consult their command staff judge advocate before notifying the CMC (MMSR-3).

h. The convening authority may delegate the power to excuse members before the convening of the board's initial session to the cognizant staff judge advocate, legal services support section officer in charge, or law center director. The convening authority's delegate may not excuse more than one-third of the total number appointed.

2. Presiding Officer

a. The senior member of the board in the grade of major or higher shall serve as president and shall preserve order and decide upon matters relating to the routine business of the board. (Members frocked to pay grade of O-4 cannot serve as president of administrative separation boards.) The president may grant a continuance, recess, and adjourn the board to meet at a time and a place most convenient and proper. The president shall preside and rule finally on all matters of procedure and evidence, but the rulings of the president may be overruled by a majority of the board. If appointed, the legal adviser shall rule finally on all matters of procedure, evidence, and challenges, except challenges to the legal adviser. The president's rulings are subject to objection by any voting member of the board. Should a voting member object to the president's ruling on any matter, a vote shall be taken in closed session and the question shall be decided by a majority vote.

b. Motions or objections pertaining to any matter other than to continuances, recesses, or adjournments do not require ruling by the president

of the board. Such motions or objections should be heard and merely noted in the record for resolution by the separation authority.

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3. Recorder. A non-voting recorder will be appointed by the convening authority to each administrative separation board. An assistant recorder may be appointed. The convening authority may delegate the authority to appoint the nonvoting recorder or assistant recorder to the cognizant staff judge advocate, legal services support section officer in charge, or law center director. A recorder or assistant recorder may be changed at any time by the convening authority or their delegate. The assistant recorder, at the direction of the recorder, may perform any duty or function which the recorder is required or empowered to perform. The recorder's primary responsibility is to exploit all practical sources of information and to bring out all the facts in a manner to permit the board to make fully informed findings and recommendations concerning the respondent. The recorder and assistant recorder should be experienced officers and shall be warrant or commissioned officers. The recorder and/or the assistant recorder may be a lawyer within the meaning of UCMJ, Article 27b(1). Neither the recorder, nor the assistant recorder will possess any greater legal qualifications than those possessed by the respondent's counsel. The recorder is responsible for ensuring that the board is presented only such materials and documents which may properly be considered by it. The recorder is also responsible for ensuring that the board is presented all testimony, materials, and documents which may properly be considered by it, which are necessary to arrive at such findings, opinions, and recommendations, as will permit the discharge authority to make a proper disposition of the case. The recorder will conduct a preliminary review of all available evidence, screen out improper matter, and obtain such additional evidence as appears necessary. The recorder will arrange for the time, date, and place of the hearing after consulting with the president of the board and the counsel for the respondent. The recorder will also arrange for the attendance of all material witnesses authorized to appear at the hearing pursuant to paragraph 6317, except those witnesses whose attendance is arranged by the respondent. At the hearing, the recorder will conduct the direct examination of all witnesses, except those requested or called by the respondent. The recorder will not participate in the closed sessions of the board or in the determination of the board's findings, opinions (if any), and recommendations. Under the direction of the president of the board, the recorder will prepare or cause to be prepared a record of the board's proceedings. The convening authority of the board may appoint a reporter to provide other clerical assistance for the purpose of assisting the recorder in preparing the record.

4. Legal Advisor. At the discretion of the convening authority, a non-voting legal advisor, who is a judge advocate certified in accordance with Article 27b(1), UCMJ, may be appointed to the board. If appointed, the legal advisor shall rule finally on all matters of procedure, evidence and challenges, except challenges to the legal advisor. A legal advisor shall not be both junior to and in the same direct chain of command as any voting member of the board. If the convening authority desires to appoint a legal advisor but does not have a judge advocate readily available, the convening authority should contact the CMC (MMSR-3) for assistance.

6316. PROCEDURE. The following rules shall govern the procedures to be employed by an administrative separation board. Where questions arise as to matters of procedure not covered in this Manual, such questions will be resolved at the discretion of the board or the convening authority.

1. Rules of Evidence. An administrative separation board functions as an administrative rather than a judicial body. Accordingly, in the board's proceedings, the strict rules of evidence governing trials by court-martial

are not applicable. The admissibility of evidence is a matter within the discretion of the president of the board. There is a sharp and distinct delineation between the administrative process which has as its purpose the administrative elimination of unsuitable, unfit, or unqualified Marines, and the judicial process, the purpose of which is to establish the guilt or innocence of a member accused of a crime and to administer punishment when appropriate. No evidence will be rejected from consideration solely on the grounds that it would be inadmissible in court-martial proceedings. Reasonable restrictions shall be observed, however, concerning relevancy and competency of evidence. The president of the board has full authority to decline to accept evidence whose probative value is outweighed by the prejudicial effect on the respondent, or which would cause unnecessary embarrassment to a witness or victim involved in the case. Within the discretion of the president of the board, the respondent or recorder may present the results of a polygraph and testimony or information about the polygraph procedure. If the results are presented to the board, the respondent or recorder may present evidence to rebut that evidence or to rebut the validity of polygraph evidence in general.

2. Explanation of Respondent's Rights. At the onset of the proceedings, the board will ascertain whether or not the respondent has been fully advised of and understands their rights under paragraph 6304. The assurance of the respondent's counsel in this regard will normally suffice. If the board is not satisfied that the respondent has been so advised, or the respondent does not fully understand any explanation previously given, the board will clearly explain those rights to the respondent.

3. Exercise and Waiver of Respondent's Rights. The respondent will be given a reasonable opportunity to exercise any and all rights before the board. The failure of the respondent to exercise or invoke any of the specified rights, after having been apprised of the same, will not be considered as a bar to the board proceedings, findings, opinions, and recommendations. Such rights will be conclusively presumed to be waived.

4. Eliciting Further Information. Whenever it appears desirable to the members of the board to elicit or develop additional information for a proper hearing of the matters before the board, the president will advise the recorder and may direct the calling of a witness, pursue further lines of questioning, or direct that other evidence be presented.

5. Security Matters. If any matter to be heard by the board requires a security clearance and individual counsel for the respondent or other participants in the board's proceedings have not been granted such clearance, consult the convening authority for further guidance (see OPNAVINST 5510.1 and JAGMAN, section 0144).

6. Sessions. The proceedings of the board will be open to the public unless the convening authority directs otherwise. At the direction of the president of the board, the hearing room may be cleared at any time for deliberations by the board members. At such times, all persons except voting members will withdraw from the hearing room.

7. Challenges

a. The respondent may challenge any voting member or legal advisor for cause only. The basis for such challenge is that the challenged person cannot approach the case with impartiality and an open mind. A challenged person will be given the right to make a statement with respect to the challenge.

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The board will not receive a challenge to more than one person at a time. After disclosing the grounds for challenge, the respondent may examine the challenged person as to matters relating to their competency to sit in that particular case. This examination may or may not be under oath or affirmation at the discretion of the respondent. When the respondent desires oath or affirmation the election to swear or affirm resides with the challenged person. The recorder and other members of the board may also examine the challenged person. Other evidence relevant to the challenged person's competency to sit on the board may also be heard.

b. The burden of persuasion in establishing a challenge is on the respondent.

c. The convening authority shall rule finally on all challenges for cause of legal advisors, when appointed, and of board members when a legal advisor has not been appointed.

d. If a challenge is sustained as to any member or legal advisor, such person is excused from further participation in the case.

e. If a sustained challenge reduces the number of members below three or leaves the board without a member in the grade of major or higher, the convening authority shall be notified immediately. The board will stand adjourned until the convening authority appoints such additional voting members as required under paragraph 6315.1.

8. Order of Presenting Evidence

a. The testimony of witnesses and the presentation of other evidence will normally be in the following order:

- (1) Witnesses called and evidence presented by the recorder;
- (2) Witnesses called and evidence presented by the respondent;
- (3) Witnesses called and evidence presented by the recorder in rebuttal;
- (4) Witnesses called and evidence presented by the respondent in rebuttal;
- (5) Witnesses called and evidence presented at the request of the board.

b. The order of examining each witness is:

- (1) Direct examination.
- (2) Cross examination.
- (3) Redirect examination.
- (4) Recross examination.

(5) Examination by the board.

c. The foregoing order of presentation and examination of witnesses need not be followed when the board determines that a different order will secure a more effective presentation of evidence.

9. Final Arguments. The recorder and counsel for the respondent will be permitted to present final argument, if they so desire. The recorder has the right to make opening final argument and, if argument is made on behalf of the respondent, the closing final argument.

10. Burden of Proof. The burden of proof before administrative separation boards rests upon the Government. This burden never shifts. After the presentation of the Government's case, certain justifiable inferences which are adverse to the respondent may be drawn from the evidence by the board, the convening authority, and the separation authority. In this latter instance, the burden of going forward with evidence to avoid the adverse effect of these justifiable inferences may then shift to the respondent.

11. Standard of Proof. The standard of proof is a preponderance of the evidence as to all matters before an administrative separation board.

12. Weight and Credibility of Evidence. The board will rely upon its own judgment and experience in determining the weight and credibility to be given material or testimony received in evidence.

6317. WITNESSES. Testimonial evidence may be presented to the administrative board through the personal appearance of the witness, through the use of oral or written depositions, unsworn written statements, affidavits, testimonial stipulations, or any other accurate and reliable means for presenting testimonial evidence. The testimony of a witness may be excluded if the legal advisor or president of the board determines that its probative value is substantially outweighed by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

1. Attendance. Within a reasonable period of time before the date set for the administrative board hearing, the respondent or the respondent's counsel will submit a written request to the convening authority, via the president of the board, for all witnesses requested to testify on behalf of the respondent. Failure to submit a request for witnesses in a timely fashion shall not automatically result in denial of the request, but if it would be necessary to delay the hearing in order to obtain a requested witness, lack of timeliness in submitting the witness request may be considered along with other factors in deciding whether to provide the witness. If the requested witness is not physically located at the command, the respondent may request TAD or invitational travel orders. Civilian witnesses whose attendance is required shall be issued invitational travel orders.

a. If production of a witness will require expenditure of funds by the convening authority, the written request for attendance of the witness shall also contain the following:

(1) A synopsis of the testimony that the witness is expected to give.

(2) An explanation of the relevance of such testimony to the issues of separation or characterization.

(3) An explanation as to why written or recorded testimony would not be sufficient to provide for a fair determination.
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b. The convening authority may authorize expenditure of funds for production of witnesses only if the president (after consultation with a judge advocate) or the legal advisor (if appointed) determines that:

(1) The testimony of a witness is not cumulative;

(2) The personal appearance of the witness is essential to a fair determination on the issues of separation or characterization;

(3) Written or recorded testimony will not accomplish adequately the same objectives;

(4) The need for live testimony is substantial, material, and necessary for proper disposition of the case; and

(5) The significance of the personal appearance of the witness, when balanced against the practical difficulties in producing the witness, favors production of the witness. Factors to be considered in relation to the balancing test include, but are not limited to, the cost of producing the witness, the timing of the request for production of the witness, the potential delay in the proceedings that may be caused by producing the witness, or the likelihood of significant interference with military operational deployment, mission accomplishment, or essential training.

c. If the convening authority determines that the personal testimony of a witness is required, the hearing will be postponed or continued if necessary to permit the attendance of the witness.

d. The hearing shall be continued or postponed to provide the respondent with a reasonable opportunity to obtain a written statement from the witness if a witness requested by the respondent is unavailable in the following circumstances:

(1) When the president determines that the testimony of the witness is not required;

(2) When the commanding officer of a military witness determines that the military necessity precludes the witness' attendance at the hearing; or

(3) When a civilian witness declines to attend the hearing.

e. Any expense incident to the appearance of material witnesses on active duty with any of the Armed Forces before an administrative separation board will be charged to the operation and maintenance allotment of the convening authority of the board.

f. Paragraph 6317.1d(3) does not authorize a Federal employee to decline to appear as a witness if directed to do so in accordance with applicable procedures of the employing agency.

2. Testimony. The respondent, the respondent's counsel, and the recorder shall be afforded a reasonable opportunity to interview a witness before calling the witness to testify before the administrative board.

a. The testimony of all witnesses appearing in person before the board, at the discretion of the president may be taken under oath or affirmation, except that the respondent may make an unsworn statement. A respondent's unsworn statement may include matters concerning the acts or omissions which

form the basis for discharge, matters in extenuation or mitigation, or any other relevant matter. The respondent may not be cross-examined on such an unsworn statement. Evidence may be introduced by the recorder to rebut any statements of fact contained in it. The respondent's unsworn statement may be oral, in writing, or both and may be made by the respondent or the counsel, or by both of them. The respondent's statement should be factual and not argumentative in nature.

b. No witness, including the respondent, appearing before the board shall be compelled to incriminate themselves or to answer any questions the answer to which may tend to incriminate them. Nor shall they be compelled to make any statement or produce evidence if the statement or evidence is not material to any matter under investigation and may tend to degrade them. Other than the respondent, any person, may be called as a witness before the board, whether or not they request to be a witness. If a witness, including the respondent, is accused of, suspected of, or charged with an offense under the UCMJ, the president shall inform the witness of the nature of the offense and the service member's Article 31, UCMJ, rights. If the witness is not subject to the UCMJ, the witness should be provided an appropriate, lawful advisement of rights. If a witness exercises the right to refrain from testifying regarding matters related to an offense of which they are accused, suspected, or charged, the witness may be questioned on other matters. The question of whether a witness is suspected of an offense is one for decision by the board and will depend upon the nature of the matter being considered by the board, the reasonable probability that an offense has been committed, and the reasonable probability that the witness committed the offense. The board shall resolve all reasonable doubt in favor of the witness. Each witness appearing before the board should be advised of the subject matter of the administrative separation board.

c. Unless otherwise authorized by the president, all witnesses, other than the respondent, shall be excluded from the room where the board is meeting except when they are testifying.

d. The president, may direct witnesses not to discuss their testimony with other witnesses or persons who have no official interest in the matter until the board's proceedings are completed. This warning is given to ensure that the matters before the board can be fairly heard and to eliminate the possibility that disclosures of the substance of the witness' testimony may influence the testimony of a witness still to be heard.

6318. OATHS. The oath or affirmation to be given pursuant to this chapter will be under JAG Manual, section 0212, and will be administered by the recorder.

6319. FINDINGS AND RECOMMENDATIONS

1. The board shall determine its findings and recommendations in closed session. Only voting members of the board shall be present. All findings and recommendations shall be determined by a majority of the voting board members. A tie vote shall be resolved in favor of the position more favorable to the

respondent. All voting members shall sign the appropriate board report, majority or minority.

2. The board shall determine whether each allegation in the notice of proposed separation is supported by a preponderance of the evidence.
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3. If the board finds that one or more of the allegations are supported by the evidence, it shall then determine whether the findings warrant separation for the reason(s) stated in the notice. If more than one reason was stated in the notice, there shall be a separate determination for each reason.

4. Findings. The board shall state:

a. The specific evidence it considered relating to each act, omission, or circumstance alleged in the notice;

b. Its determination for each alleged act, omission, or circumstance, that the preponderance of evidence does or does not support that act, omission, or circumstance;

c. The specific reason for separation defined in the notification letter and chapter 6 of this Manual to which each act, omission, or circumstance supported by a preponderance of the evidence applies.

5. The board shall make recommendations on the following:

a. Retention or Separation. The board shall recommend retention or separation.

b. Suspension of Separation. If the board recommends separation, it may recommend that the separation be suspended under paragraph 6310.

c. Characterization of Service or Description of Separation. If separation or suspended separation is recommended, the board shall recommend a characterization of service or description of separation as authorized per paragraph 6107.

d. Transfer to the Individual Ready Reserve. The board shall make a recommendation as to whether the respondent should be retained in the IRR as a mobilization asset to fulfill the respondent's total service obligation except when the board has recommended separation on the basis of homosexual conduct, misconduct, drug trafficking, defective enlistment or induction, when there are medical reasons why the respondent would not be available to meet mobilization requirements, or where the board has recommended characterization of service under other than honorable conditions. In making a recommendation for retention in the IRR, the board should consider how the respondent's performance, training, and availability affects the respondent's potential for useful service under conditions of full mobilization. The option of transfer to the IRR applies to cases involving separation from active duty or from the Selected Marine Corps Reserve.

6. Minority Report. If a member does not concur in the findings, opinions, or recommendations of the majority of the board, the member shall prepare a minority report stating explicitly the reason(s) for disagreeing with the majority report. The minority report may also include additional findings of fact, opinions, and recommendations. All members concurring in the minority report shall sign the report.

6320. RECORD OF PROCEEDINGS AND REPORT OF THE BOARD. In cases where the board recommends separation, the record of the proceedings shall normally be kept in summarized form unless a verbatim record is required by the separation authority or authorized by the convening authority. In cases where the board recommends retention, a record of the proceedings is optional unless required

by the separation authority. However, a summarized or verbatim record shall be prepared in any case in which the CMC is the separation authority, and in any case in which the board recommends retention and the separation authority elects to forward the matter to the Secretary of the Navy under paragraph 6309.2. The board reporter shall retain all materials necessary to prepare a transcript should the separation authority elect to forward the case to the Secretary. The record of proceedings shall otherwise be prepared as directed by the convening authority and shall be authenticated by the signatures of the president and the recorder or, in the absence of either or both, by a member in lieu of the president or by a member in lieu of the recorder. Whether or not a written transcription is ultimately required, at a minimum, the proceedings shall be recorded using audio tapes or a court reporter if available. The recorder will determine the availability of court reporters after consulting with the SJA, law center director, or the OIC Legal Services Support Section (LSSS).

1. When a record of proceedings is required, it shall contain, as a minimum:

a. An authenticated copy of the appointing order and any other communication from the convening authority.

b. A summary of the testimony of all witnesses, including the respondent, appearing in person before the board.

c. A summary of the sworn or unsworn statements of all absent witnesses considered by the board.

d. Acknowledgment that the respondent was advised of and fully understands all of the rights of the respondent before the board.

e. The identity of the counsel for the respondent and the non-voting recorder, and their respective legal qualifications.

f. Copies of the letter of notification to the respondent, advisement of rights, and acknowledgment of rights.

g. If a discharge is recommended, a complete statement of the facts and circumstances, accompanied by appropriate supporting documents, upon which the recommendation is based.

h. A summary of any unsworn statements submitted by the respondent or their counsel.

i. All exhibits accepted by the board for consideration with Recorder and Respondent exhibits marked in such a manner to differentiate between them. Each exhibit will be clearly and individually identified within the record of proceedings, and each exhibit shall be clearly marked and sequentially numbered or lettered, e.g., "Govt Exhibit 1," "Respondent Exhibit A," "Board Exhibit I," etc.

j. A majority board report signed by all concurring voting members.

k. A minority board report, if applicable, signed by all concurring voting members.

2. In all cases, the findings and recommendations of the board shall be in verbatim form.

3. The convening authority shall forward to the separation authority, via the chain of command, the findings and recommendations of the board, the record of proceedings, and the recommendations of subordinate commanders, if applicable, and shall make a recommendation with specific rationale on each of the board's findings and recommendations.

6321. SUBSEQUENT ADMINISTRATIVE SEPARATION BOARD PROCEEDINGS

1. No Marine will be subjected to administrative separation board action based upon conduct which has previously been the subject of administrative discharge board proceedings when the evidence before the subsequent board would be the same as the evidence before the previous board, except in those cases where the findings of the previous board favorable to the respondent are determined by the discharge authority to have been obtained by fraud or collusion, or where the discharge authority finds legal prejudice to the substantial rights of the respondent, or where the previous administrative separation board recommended separation but the proceedings were determined to be null and void (i.e., the board was improperly convened or constituted). Evidence before a subsequent board is not the same as evidence before a previous board when subsequent conduct or performance forms the basis, in whole or in part, for a new proceeding, or when there is new or newly discovered evidence that was not reasonably available at the time of the prior proceeding.

2. Except when the previous board results were obtained by fraud or collusion, a subsequent board considering the same evidence may not return a recommendation less favorable to the respondent than that returned by the previous board.

3. Conduct is considered to have previously been the subject of administrative separation board proceedings when the previous board has submitted the record of its proceedings to the convening authority and when the board's record include one of the recommendations prescribed in paragraph 6319.

4. When a subsequent board is convened, no voting Marine of the subsequent board shall have served on a previous board as a voting member and no voting Marine of the subsequent board may have been the recorder or assistant recorder of a previous board which considered the same matter. However, the recorder and/or the assistant recorder of the previous board may serve as the recorder and/or the assistant recorder of the subsequent board.

5. The record of the proceedings of the previous board may be furnished to the subsequent board. However, the subsequent board will not be furnished the findings, opinions, or recommendations of the previous board, nor the specific comments of the convening or separation authority concerning the previous board. Additionally, any evidence considered by the separation authority to have been prejudicial to the substantial rights of the respondent, or to have been obtained by fraud or collusion, will not be provided to the subsequent board. Such excluded matter, however, should be furnished to the recorder of the subsequent board in order that the member may ensure that such matter is not permitted to be injected into the subsequent proceedings. While the subsequent board may consider the report of the previous board, it shall not be bound in any manner to return any finding, opinion, or recommendation

consistent with any finding, opinion, or recommendation rendered by the previous board, except as provided in paragraph 6321.2. The subsequent board

shall submit its findings, opinions, and recommendations, de novo (as new). The subsequent board, in an appropriate case, may base its findings of fact, opinions, and recommendations solely upon the evidence properly considered by the previous board.

6. When a separation authority sets aside the findings and recommendations of a previous board and appoints a subsequent board to hear the respondent's case, no further action is required before the subsequent board's hearing of the respondent's case other than the appointment of the subsequent board. The respondent and their counsel shall be notified of the findings and recommendations of the previous board and timely notice of the time and place of the subsequent board hearing, the witnesses to be heard, and the evidence to be considered before the subsequent board.

7. If a subsequent board is convened, the record of the first proceeding should be attached to the record of the subsequent proceeding.

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-1. Commands Delegated by the CMC (SJA) as Discharge Authority For Other Commands

CG, MCB Quantico

HQBN, HQMC

~~MarBks Annapolis, MD~~

MarBks Washington, DC

MarCorAdminDet Ft Leavenworth, KS

MarCorAdminDet Patuxent River, MD

~~MarCorDet Newport, RI~~~~MarCorDet Aberdeen, MD~~~~MarCorDet Ft Devens, MA~~

MSGBN Quantico, VA

~~MarSptBn Fort Meade, MD Washington, DC~~~~Chem Bio Incident Response Force~~COMMARFORRES

4th MarDiv

4th MAW

4th FSSG

CG I/II/III MEF

MEU Command Element

Chem Bio Incident Response ForceCG, 1st/2d/3d MARDIVMEU Ground Combat ElementCG, 1st/2d/3d MAW

MEU Aviation Combat Element

COMMARFORLANT

HQSVCCO MarForLant

~~EWTCIant~~

HQFMFEUR

MarBks Guantanamo Bay, Cuba

~~MarCorAdminDet Dam Neck, VA~~

MCSFBn

All MarDets on ships

MATSG Oceana

NMITC Oceana

CG, 1st/2d/3d FSSG

MEU Combat Service Support Element

CG, MCB Camp PendletonMCSA Kansas City, MOMCTSSA MCB Camp Pendleton, CAMCMWTC Bridgeport, CARSU MCB Camp Pendleton, CASOI MCB Camp Pendleton, CAAASBn MCB Camp Pendleton, CACOMCABEAST

MATSG Pensacola, FL

~~MATSG Cecil Field, FL~~

MATSG Meridian, MS

MATSG Corpus Christi, TX

MATSG Millington, TN

CG, MCRD/ERR Parris Island, SC

MarCorAdminDet Ft Knox, KY

~~MarCorAdminDet Ft McClellan, AL~~

MarCorDet Kessler AFB, MS

COMCABWEST~~MarCorAdminDet Ft Huachuca, AZ~~~~MarCorAdminDet Ft Bliss, TX~~

MarAvnDet NWC China Lake, CA

MATSG Lemoore, CA

MarAvnDet Point Mugu, CA

MATSG Whidbey Island, WA

CG, MCRD/WRR San Diego, CA~~MarCorAdminDet Chanute AFB, IL~~~~MarCorAdminDet Ft Goodfellow AFB, TX~~~~MarCorAdminDet Ft B. Harrison, IN~~~~MarCorAdminDet Ft Sill, OK~~~~MarCorAdminDet Lackland AFB, TX~~~~MarCorAdminDet Monterey, CA~~

EWTGPac Coronado, CA

COMMARCORLOGBASES~~MarCorAdminDet Ft Gordon, GA~~~~MarCorAdminDet Redstone Arsenal, AL~~~~MarCorAdminDet MacDill AFB, FL~~

~~MarCorAdminDet Ft Benning, GA~~
MarCorAdminDet Lowry AFB, CO
Blount Island Cmd Jacksonville, FL

Figure 6-1. Commands Delegated by the CMC (SJA) as Discharge Authority For
Other Commands

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-2. Sample Format for Notification Without an Administrative Separation Board

From: Commanding Officer
To: (Individual Marine)

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

Ref: (a) MCO 1900.16F (MARCORSEPMAN)

Encl: (1) Purpose and Scope of the Naval Discharge Review Board (NDRB) and
Board for Correction Naval Records (BCNR)
(2) Acknowledgment of Respondent's Rights

1. You are hereby notified that I intend to recommend to the (Separation Authority; e.g., Commanding General) that you be discharged from the U.S. Marine Corps/released from active duty to a Reserve component per paragraph (insert paragraph number) of the reference by reason of (state the general and specific bases for discharge contained in the reference).

2. The basis (bases if multiple reasons) for this recommendation is (describe the circumstances supporting the CO's recommendation. Be specific because both the respondent and the Separation Authority need to know precisely why this Marine is being recommended for separation).

3. The least favorable characterization which you may receive is general (under honorable conditions). Although the (Separation Authority) will make the determination of characterization if you are separated, I am recommending you receive a(n) Honorable/General (under honorable conditions) characterization of service.

4. As a result of these separation proceedings, you have the following rights:

a. You have the right to consult with qualified counsel. It is in your best interests to do so before waiving any of your rights.

b. You have the right to submit written statements to the (Separation Authority) in rebuttal to this proposed separation.

c. You have the right to obtain copies of documents that will be forwarded to the (Separation Authority) supporting the basis of this proposed separation. Classified documents shall be summarized.

~~d. You have the right to request an administrative board if you have more years of total active and reserve military service.~~

~~d.e.~~ You may waive any of these rights after being afforded a reasonable opportunity to consult with counsel and that failure to respond shall constitute a waiver of these rights.

Figure 6-2. Sample Format for Notification Without an Administrative Separation Board

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-2. Sample Format for Notification Without an Administrative Separation Board - Continued

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

e.f. (Use if applicable). Although you are FMCR/retired list eligible, you have refused to request transfer to the FMCR/retired list as provided in paragraph 6106.4 of the reference. If separation is approved, you may lose all retainer/retired pay and benefits.

5. If you are separated before you complete an active duty service requirement incurred because you received advanced education assistance, bonuses, or special pays, you may be required to reimburse the U.S. government on a pro rata basis for the unserved portion of the active service requirement.

6. Information on the Purpose and Scope of the NDRB and the BCNR is provided to you as enclosure (1).

7. You are directed to respond in writing to this notice not later than (time and date) (e.g., 0900, 4 May 94. Must allow at least 2 working days) by completing and returning enclosure (2), citing time and date completed. Failure to respond by the prescribed time constitutes a waiver of your rights.

Signature

Figure 6-2. Sample Format for Notification Without an Administrative

Separation Board - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-2. Sample Format for Notification Without an Administrative Separation Board - Continued

(Letterhead)

From: (Individual Marine)
To: Commanding Officer

Subj: ACKNOWLEDGMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING
SEPARATION PROCEEDINGS

Ref: (a) CO's ltr

1. _____ I acknowledge receipt of the reference notifying me of proceedings to (discharge me) (release me from active duty) by reason of (general and specific basis as found in MARCORSEPMAN).

2. _____ I understand that I am being recommended for separation with (an honorable or a general (under honorable conditions) characterization of service and that the least favorable characterization which I may receive is general (under honorable conditions).

3. In view of the above, I choose to execute the following rights:

a. _____ I (have) (have not) included statements in rebuttal to this proposed separation.

b. _____ I (have) (have not) consulted with counsel. I realize it is in my best interests to do so before exercising or waiving any of my rights. My counsel's name is: _____.

c. _____ I (do) (do not) desire to obtain copies of documents that will be forwarded to the (Separation Authority) supporting this proposed separation.

~~d. _____ If I have 6 or more years of total service and reserve military service, I (do) (do not) request an administrative board.~~

d.e. _____ (if applicable) Although I am FMCR/retired list eligible, I have refused to request transfer to the FMCR/retired list. I understand that, if separation is approved, I may lose all retainer/retired pay and benefits.

4. _____ I understand that if I am separated before I complete an active duty service requirement incurred because I received advance education assistance, bonuses, or special pays, I may be required to reimburse the U.S. government on a pro rata basis for the unserved portion of the active service requirement.

5. _____ I have read and fully understand the information contained in the Purpose and Scope of the NDRB and BCNR.

Witness

Date

Respondent

Date

Figure 6-2. Sample Format for Notification Without an Administrative
Separation Board - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative Separation Board

(Letterhead)

From: Commanding Officer
To: (Individual Marine)

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

Ref: (a) MCO 1900.16F (MARCORSEPMAN)

Encl: (1) Purpose and Scope of the Naval Discharge Review Board (NDRB) and
Board for Correction Naval Records (BCNR)
(2) Acknowledgment of Respondent's Rights

1. You are hereby notified that I intend to recommend to the (Separation Authority; e.g., Commanding General) that you be discharged from the U.S. Marine Corps/released from active duty to a Reserve component of the USMC per paragraph _____ of the reference by reason of (state the general and specific bases for separation contained in the reference).

2. The basis (bases if multiple reasons) for this recommendation is (describe the circumstances supporting the commanding officer's recommendation. Be specific because both the respondent and the separation authority need to know precisely why this Marine is being recommended for separation).

3. The least favorable characterization of service which you may receive is (honorable/general (under honorable conditions)/under other than honorable conditions). Although the (Separation Authority) will make the determination of characterization if you are separated, I am recommending you receive a(n) honorable/general (under honorable conditions)/under other than honorable characterization of service. (Include the following language if applicable: Although you are FMCR/Retired List eligible, you have refused to request transfer to the FMCR/Retired List as provided in paragraph 6106.4 of the reference. If separation is approved, you may lose all retainer/retired pay and benefits).

4. As a result of these separation proceedings, you have the following rights:

a. You have the right to consult with qualified counsel before electing or waiving any of your rights. It is in your best interest to do so before waiving any of your rights.

b. You have the right to request a hearing before an Administrative Separation Board per paragraph _____ of the reference.

c. You have the right to present written statements to the (Separation Authority) in rebuttal to this proposed separation and in lieu of having a hearing.

Figure 6-3. Sample Format for Notification With an Administrative Separation Board

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative Separation Board - Continued

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

d. You have the right to obtain copies of documents that will be forwarded to the (Separation Authority) supporting this proposed separation. Classified documents shall be summarized.

e. You have the right to waive any of these rights after being afforded an opportunity to consult with counsel.

5. Should you request a hearing before an Administrative Separation Board, you would be afforded the following rights:

a. To appear in person before such a board or be represented by counsel if you are confined by civil authorities.

b. To be represented by military counsel. Appointed, or of your choice, if available.

c. To be represented by civilian counsel if you desire and at your own expense.

d. To challenge voting members of the board or the legal advisor, if any, for cause only.

e. To testify in your own behalf, subject to the provisions of Article 31, UCMJ (Compulsory Self-Incrimination Prohibited).

f. At any time during the proceedings you or your counsel may submit written or recorded matter for consideration by the board.

g. You or your counsel may call witnesses on your behalf.

h. You or your counsel may question any witness who appears before the board.

i. You or your counsel may present argument before the board's closing the hearing for deliberation on findings and recommendations.

j. Upon written request to the (Convening Authority), to be provided with a copy of the report of the board and the endorsement.

k. Failure to appear without good cause at a hearing constitutes waiver of your right to be present at the hearing.

l. You have the right to make a sworn or unsworn statement.

m. You have the right to examine evidence presented by the board, to cross-examine witnesses appearing before the board, to submit evidence before the board, and to present final argument before the board.

Figure 6-3. Sample Format for Notification With an Administrative

Separation Board - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative Separation Board - Continued

Subj: NOTIFICATION OF SEPARATION PROCEEDINGS

n. Failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes waiver of the rights in paragraph 6304.1d to 6304.1m of the reference.

6. If you are separated before you complete an active duty service requirement incurred because you received advanced education assistance, bonuses, or special pays, you may be required to reimburse the U.S. Government on a pro rata basis for the unserved portion of the active service requirement.

7. If you are serving in the pay grade of E-4 or above and are administratively separated with an other than honorable characterization of service, you will be administratively reduced to pay grade E-3, such reduction to become effective upon separation.

8.7. Information on the purpose and scope of the NDRB and BCNR is provided to you as enclosure (1).

9.8. You are directed to respond in writing to this notice no later than (time and date; e.g., 0900, 4 May 2001; must allow at least 2 working days) by completing and returning enclosure (2), citing time and date completed. Failure to respond by the prescribed time constitutes a waiver of your rights.

Figure 6-3. Sample Format for Notification With an Administrative
Separation Board - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative Separation Board - Continued

(Letterhead)

From: (Individual Marine)

To: Commanding Officer

Subj: ACKNOWLEDGMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING
SEPARATION PROCEEDINGS

Ref: (a) CO's ltr

1. _____ I acknowledge receipt of the reference notifying me of proceedings to (discharge me) (release me from active duty) by reason of (general and specific basis as found in MARCORSEPMAN).

2. _____ I understand that I am being recommended for separation with a(n) honorable/general (under honorable conditions)/under other than honorable conditions characterization of service and that the least favorable characterization which I may receive is general (under honorable conditions)/under other than honorable conditions. (Include the following language if applicable: Although I am FMCR/Retired List eligible, I have refused to request transfer to the FMCR/Retired List. I understand that, if separation is approved, I may lose all retainer/retired pay and benefits).

3. In view of the above, I choose to execute the following rights:

a. _____ I (have) (have not) consulted with counsel. I realize it is in my best interests to do so before exercising or waiving any of my rights. My counsel's name is: _____.

b. _____ I (do) (do not) request a hearing before an Administrative Separation Board.

c. _____ In lieu of a hearing, I (have) (have not) included written statements in rebuttal to this proposed separation.

d. _____ I (do) (do not) desire to obtain copies of documents that will be forwarded to the (Separation Authority) supporting this proposed discharge.

4. If I requested a hearing before an Administrative Separation Board, I realize I have the following rights:

a. _____ To be present or represented by counsel if I am confined by civil authorities.

b. _____ To be represented by appointed military counsel, or counsel of my choice, if available.

c. _____ To be represented by civilian counsel if I desire and at my own expense.

Figure 6-3. Sample Format for Notification With an Administrative

Separation Board - Continued
MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative
Separation Board - Continued

Subj: ACKNOWLEDGMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING
SEPARATION PROCEEDINGS

- d. _____ To challenge voting members of the board or the legal advisor, if any, for cause only.
- e. _____ To testify in my own behalf, subject to the provisions of article 31, UCMJ (Compulsory Self-Incrimination Prohibited).
- f. _____ At any time during the proceedings I or my counsel may submit recorded matter for consideration by the board.
- g. _____ I or my counsel may call witnesses on my behalf.
- h. _____ I or my counsel may question any witness who appears before the board.
- i. _____ I or my counsel may present argument before the board's closing the hearing for deliberations on findings and recommendations.
- j. _____ Upon written request to the (Convening Authority), to be provided with a copy of the report of the board and the endorsement.
- k. _____ Failure to appear without good cause at a hearing constitutes waiver of my right to be present at the hearing.

l. _____ I have the right to make a sworn or unsworn statement.

m. _____ I have the right to examine evidence presented by the board and to submit evidence before the board.

n. _____ That failure to respond after being afforded a reasonable opportunity to consult with counsel constitutes waiver of the rights in paragraph 6304.1d to 6304.1m of the reference.

5. _____ I understand that if I am separated before I complete an active duty service requirement incurred because I received advance education assistance, bonuses, or special pays, I may be required to reimburse the U.S. government on a pro rata basis for the unserved portion of the active service requirement.

6. _____ I understand that if I am serving in the pay grade of E-4 or above and I am administratively separated with an other than honorable characterization of service, I will be administratively reduced to pay grade E-3, such reduction to become effective upon separation.

~~6. _____ I have read and fully understand the Purpose and Scope of the NDRE and BCNR.~~

Figure 6-3. Sample Format for Notification With an Administrative

Separation Board - Continued

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

Figure 6-3. Sample Format for Notification With an Administrative
Separation Board - Continued

Subj: ACKNOWLEDGMENT OF MY RIGHTS TO BE EXERCISED OR WAIVED DURING
SEPARATION PROCEEDINGS

7. I have read and fully understand the Purpose and Scope of the
NDRB and BCNR.

<u>Witness</u>	<u>Date</u>	<u>Respondent</u>	<u>Date</u>
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~~Figure 6-3. Sample Format for Notification With an Administrative
Separation Board - Continued~~

MARINE CORPS SEPARATION AND RETIREMENT MANUAL

CHAPTER 6

ENLISTED ADMINISTRATIVE SEPARATIONS

SECTION 4: VOLUNTARY ADMINISTRATIVE SEPARATIONS

6401. GUIDELINES. An enlisted Marine may request voluntarily separation from the Marine Corps subject to the procedures and criteria established within this chapter.

1. General Basis. The general basis for separation for all reasons listed in this chapter is the Convenience of the Government except as follows:

a. Paragraph 6402. The general basis for separation is defective enlistment.

b. Paragraph 6403 and 6404. The general basis for separation is change in service obligation.

2. Separation Authority. The separation authorities for voluntary separations are listed in table 6-3. The separation authority receives the Marine's request after it has been forwarded and endorsed via the chain of command. The separation authority then directs the discharge or release from active duty of the Marine, if either is warranted, or disapproves the Marine's request and directs retention.

3. Characterization. The following characterization of service will apply when the Marine's request for separation is:

a. Defective Enlistment/Reenlistment. Honorable, unless an uncharacterized entry level separation or an order of release from the custody and control of the Marine Corps (by reason of void enlistment) is required under 6204.1.

b. Convenience of the Government. Honorable, or general (under honorable conditions), unless an uncharacterized entry level separation is required under paragraph 6204.1.

4. Notification. Use the notification procedures in paragraph 6303 if the characterization of service is general (under honorable conditions) and the Marine is:

a. A sergeant or above; or

b. A corporal or below, when the characterization of service is not based on the average duty proficiency/conduct marks.

5. Transfer to the Individual Ready Reserve (IRR). In considering any Marine's request for separation, the separation authority must consider the Marine's potential for future service in the Marine Corps Reserve. To preclude the loss of potential mobilization assets, the separation authority will screen all Marines eligible for an honorable discharge and separating for the reasons contained in this paragraph before EAS/EOS. The separation authority will direct discharge in those cases which clearly demonstrate a Marine has no mobilization potential. The separation authority also directs discharge if the condition which resulted in the Marine's separation

from active duty would preclude the Marine from worldwide assignability/ deployability as a member of the Reserves. Use the procedures in chapter 1 when transferring Marines to the IRR.

a. Transfer to the IRR is prohibited if:

(1) Separated by reason of homosexual conduct, drug use, defective enlistment;

(2) Characterization of discharge is under other than honorable;

(3) Diagnosed as HIV-1 positive; or,

(4) Assigned a reenlistment code of RE-4.

b. Transfer to the IRR vice discharge is appropriate for Convenience of the Government separation by reason of:

(1) Early release to further education (paragraph 6405);

(2) Pregnancy (paragraph 6408);

(3) Surviving family member (paragraph 6410); or,

(4) Married to other service members (paragraph 6416).

6. Unique Requirements. Each request for voluntary separation has its own procedures and criteria which should be followed for a proper determination. These unique requirements are fully explained under the appropriate paragraph in this section.

7. Submission of Request. All requests for voluntary early release requiring either CMC or Secretary of the Navy discharge authority must be received by CMC not less than 6 weeks before the requested separation date. Submissions received at CMC less than six weeks before the requested separation date will not receive favorable consideration.

8. Withdrawals. Requests for voluntary separation may be withdrawn by the Marine at any time before action on the request by the separation authority. Requests must be made in writing to the separation authority and endorsed by the chain of command.

9. Reimbursement Requirement. In those cases that may be subject to a reimbursement requirement for recoupment of advance education assistance costs, bonuses, or special pays, the Marine must be advised of such requirement before submitting a request for voluntary separation. Failure to provide such advisement, however, shall not constitute grounds for avoiding a reimbursement requirement unless otherwise expressly provided by law or superior regulation.

6402. DEFECTIVE ENLISTMENT/REENLISTMENT AGREEMENTS

1. General. A defective enlistment/reenlistment agreement exists in the following circumstances.

a. As a result of a material misrepresentation by recruiting/career planning personnel upon which the Marine reasonably relied, the Marine was induced to enlist/reenlist with a commitment for which the Marine was not qualified;

b. The Marine received a written enlistment/reenlistment commitment from recruiting/career planning personnel for which the Marine was qualified, but which cannot be fulfilled by the Marine Corps; or

c. The enlistment/reenlistment was involuntary; i.e., one that is induced by fraud, duress, or undue influence and not the product of a free and unconstrained choice, for example:

(1) Enlistment of an individual who lacks the capacity to understand the significance of enlisting in the military services; or

(2) Enlistment of an individual whose enlistment is involuntary by reason of coercion resulting from being presented with the option of either enlisting or being subjected to a sentence to confinement by a court of competent jurisdiction.

2. Criteria. This provision does not bar appropriate disciplinary action or other administrative separation proceedings regardless of when the defect was raised. Separation is appropriate under this provision only in the following circumstances:

a. The Marine did not knowingly participate in creation of the defective enlistment/reenlistment agreement.

b. The Marine brings the defect to the attention of appropriate authorities within 30 days after the defect is discovered, or as soon as practical; and

c. The Marine requests separation instead of other authorized corrective action.

3. Application. The Marine's request for separation should be a written statement addressing all pertinent issues. To be thorough, the Marine should explain:

a. What the actual defect is;

b. The circumstances of how the defect occurred;

c. How and when the defect was discovered; and

d. Any other information considered appropriate to make a proper determination.

4. Commander's Action. Marines requesting separation as a result of a defective enlistment/reenlistment agreement will submit their request via the chain of command. The Marine's immediate commanding officer will ensure that all criteria have been clearly met, that the information contained in the request is accurate, and by endorsement will provide:

a. Any additional information considered appropriate, including clarifying statements and copies of pertinent portions of the Marine's service record.

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MARINE CORPS SEPARATION AND RETIREMENT MANUAL

b. The Marine's status regarding any pending disciplinary action.

5. Characterization and Separation Authority. The separation will be honorable unless an uncharacterized entry level separation or an order of release from the custody and control of the Marine Corps is required. The separation authority for all separations under this paragraph is the CMC (MMSR-3).

6403. CHANGES IN SERVICE OBLIGATION FOR RESERVISTS ON INACTIVE DUTY

1. Discharge for Enlistment or Appointment in the Regular Marine Corps or for Appointment in the Marine Corps Reserve. The enlistment of a Reservist is deemed to be automatically terminated upon enlistment in the Regular Marine Corps or upon acceptance of appointment as an officer in the Marine Corps Reserve. Upon receipt of official notification of such enlistment or appointment, commanders will close out the service record of the Reservist concerned showing the date of discharge as of the day before enlistment in the Regular Marine Corps or of acceptance of appointment. The discharge certificate will be prepared and forwarded to the Marine.

2. Discharge for Enlistment in the Regular Army, Air Force, or Coast Guard. Upon receipt of official notification of the enlistment of a Reservist in the Regular Army, Navy, Air Force, or Coast Guard, commanders will effect the discharge of the Reservist as of the day before such enlistment, and forward the discharge certificate to the member's new organization, if known, or to the CMC (MMSB-10) with a statement as to the reason for nondelivery.

3. Discharge for Enlistment in Another Reserve Component of the Armed Forces. See paragraph 3004.

4. Reservists who do not have a military obligation who enlist or accept appointment in a Reserve component of another Armed Force will be discharged per the criteria and procedures stated in paragraph 6403.3, unless the Reservist is eligible for discharge upon request. The conditional release in such cases will state that the Reservist has no obligated service under law.

6404. CHANGES IN SERVICE OBLIGATION FOR ACTIVE DUTY MARINES

1. To Accept a Commission or Appointment. An active duty Marine may be separated for acceptance of an active duty commission, appointment, or acceptance into a program leading to a commission or appointment in any branch of the Armed Forces. All applications for commission, appointment, or acceptance into a program leading to such must be submitted via the CMC (MMSR). Applications shall include a statement acknowledging that, should the Marine be accepted in the applied for program, the Marine agrees to separation from the Marine Corps. Only the CMC may direct separation after receipt of certification from the gaining service that the Marine has been selected to accept a commission or an appointment, or has been accepted into a program leading to a commission or an appointment.

2. Commanding officers may separate an active duty Marine for immediate reenlistment when the Marine has less than 3 months remaining to serve on the enlistment (see MCO P1040.31H, Enlisted Career Planning and Retention Manual).

3. Active duty Marines may be separated under the provisions of an announced early release program authorized by the CMC.

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4. The GCMCA may separate an active duty Marine if the Marine is in a temporary duty under full treatment status or has been found physically qualified to resume full duty, regardless of duty status, with 3 months or less active obligated service remaining and who does not desire to reenlist.

5. The GCMCA may separate an active duty Marine assigned to sea duty who is within 90 days of the date of expiration of active obligated service under the following conditions:

a. When the member's ship is about to deploy with the possibility of not returning to the United States before the expiration of the member's active obligated service. The member may be separated within 5 days of the deployment date, when there would be insufficient time to complete separation processing before the member's expiration of active obligated service if the member returned to the CONUS from the first overseas port-of-call; or

b. When the home port of a member's ship or command changes, the member may be separated within 5 days of the ship's/command's departure for the new home port when there would be insufficient time to return the member to the old home port for separation processing, or to complete separation processing at the new home port before the member's expiration of active obligated service.

6405. EARLY RELEASE TO FURTHER EDUCATION

1. General. GCMCA's may authorize particularly deserving enlisted Marines to be released from active duty before expiration of active service for the purpose of pursuing their education via college or a vocational/technical school. A vocational school is to include any state or local police department, fire department, or state, city, or county service agency that would require the Marine to attend a full-time course of instruction lasting 3 months or more. The educational institution must be accredited as specified in par 6405.3. Marines who request early release for education will be considered for promotion. This program is applicable to all enlisted personnel except:

a. Six-month trainees.

b. Reservists ordered to active duty due to unsatisfactory participation as provided in 10 U.S.C. 12303. However, all other Reservists who are "set back" in training at a recruit depot and cannot meet the last date for entrance to college may be separated (MCO P1001R.54 refers).

c. Aliens seeking to qualify for citizenship by completing 3 years of active duty unless they are to be transferred to inactive duty in a Reserve component.

d. Marines who acquired additional obligated service due to advanced training.

2. Criteria. The following criteria applies:

- a. The Marine must be eligible for an honorable discharge;
- b. The Marine's services must not be essential to the command's mission;

c. The latest acceptable registration and class convening dates of the school term for which the Marine seeks release must fall within the last 3 months of the Marine's remaining service.

d. Applications will normally be denied if the Marine has:

(1) Received fully funded education, or education for which the Marine incurred obligated service;

(2) Completed advanced technical training;

(3) Received special compensation during the current enlistment (e.g., reenlistment bonus);

(4) A military occupational specialty which requires retention; or

(5) Become indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reduction in grade, and fines and forfeitures.

e. Waiver of the criteria in the preceding paragraph will only be considered when the Marine makes a cash remittance before initiation of separation processing.

3. Application. An application format is provided in figure 6-5.

a. In their applications, all Marines must:

(1) Clearly establish why the specific school term for which release is sought is academically the most opportune time to begin or resume education and why delay of enrollment until normal expiration of service would cause undue hardship;

(2) State in the application, "I understand I am subject to possible recall to active duty and/or prosecution for fraudulent separation if I do not attend the school for which I am granted early release." and

(3) Provide evidence that full tuition for the first school term has been paid or will be paid.

b. In addition to the requirements in paragraph 6405.3a, Marines applying for separation to attend college must present documentary evidence which establishes:

(1) That the Marine has been accepted without qualification to a recognized institution of higher learning.

(2) The school is accredited in the Education Directory for Postsecondary Education published yearly by the Department of Health, Education, and Welfare or has been determined by the United States Office of Education to be eligible for such listing.

(3) That the Marine will be in a full-time course of instruction leading to an associate, baccalaureate, or higher degree; and

(4) The latest date of registration and the class starting date for the specified school term and the next succeeding term.

c. In addition to the requirements in paragraph 6405.3a, Marines applying for separation to attend a vocational/technical school must present documentary evidence which establishes:

(1) The school's specific accreditation status, the date such status was acquired, and the name of the accrediting agency or association. A recognized school is one which is approved by a State Board of Vocational Education or is accredited by a nationally recognized accreditation agency or association listed by the U.S. Commissioner of Education.

(2) That the Marine has been accepted without qualification to a full-time course of instruction lasting 3 months or more; and

(3) The latest date of registration and the class starting date for the specified school term and the next succeeding term.

d. The term "acceptance without qualification" means that the Marine must be accepted for admission without being subject to any further approval before entrance. A statement that the Marine is admissible, subject to a review of the Marine's records, or subject to passing an entrance exam, qualifies the acceptance and prohibits the Marine's early release. A Marine who is accepted on probation meets the requirements for early release.

e. The term "full-time resident course of instruction" means the Marine must take the minimum number of credit hours for the semester, quarter, or the term considered by the school to be full-time (excluding night school).

4. Commander's Action. Marines who meet the criteria above and who have obtained the required substantiating documentation may submit an application via the chain of command to the GCMCA.

a. The Marine's immediate commanding officer will ensure that all the criteria have been clearly met, that the information contained in the request is accurate, and by endorsement will provide:

(1) A definite recommendation for approval or disapproval;

(2) The applicant's normal EAS, PEBD, and current leave balance;

(3) Certification that the Marine is eligible for an honorable discharge;

(4) Certification that the Marine is not requesting early separation to avoid service; and

(5) Any other information deemed appropriate.

b. The effective date of separation must be within 3 months of the Marine's normal release date (i.e., EAS, EOS, and extension). It is not the "advanced" separation date established by any other early separation program which might be in effect.

c. Applications should be submitted to the GCMCA at least 4 weeks before the requested date of separation. Marines assigned to OCONUS commands should apply 6 weeks before the requested date of separation.

d. The approved separation date will usually be 10 calendar days before the class starting date. In no event will it exceed 30 days.

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e. Commanders may grant leave while awaiting separation in conjunction with this program as authorized by MCO P1050.3H; however, it may not be used in combination with the 90-day maximum period to meet a class convening date not falling in the basic criteria. In no event will an effective date of release from active duty be authorized for a date earlier than 90 days in advance of the normal expiration of active service.

5. Exceptions and Waivers

a. The requirement for an applicant to be eligible for an honorable separation and the maximum permissible early release of 90 days will not be waived.

b. Leave must not be authorized to exceed this 90-day limit.

c. Address any other exceptions to the CMC (MMSR-3) for a final determination.

d. Cases that fail to meet the above requirements may, in exceptional circumstances, be submitted to the Secretary of the Navy under Secretarial Plenary Authority/Best Interest of the Service (paragraph 6421) via the CMC (MMSR-3). These cases should be coordinated with the CMC (MMSR-3) before submission. This authority will be reserved exclusively for superior Marines faced with a "once in a lifetime" opportunity.

6406. EARLY RELEASE TO ACCEPT PUBLIC OFFICE. A Marine may be released from active duty, permitted to resign, or discharged as appropriate, for the purpose of performing the duties of the President or Vice-President of the United States, a Presidential appointee to a statutory office, a member of either of the legislative bodies of the U.S.; a governor, any other state official chosen by the voters of the entire state or states; and a judge of courts of record of the U.S., the States, and the District of Columbia.

1. In the case of a Reservist who is eligible for the Reserve Retired List or is already on the Reserve Retired List, the Reservist will be relieved from active duty.

2. Applications will normally be denied if the Marine has:

a. Received fully funded education or education for which the Marine incurred obligated service;

b. Completed advanced technical training;

c. Received special compensation during the current enlistment (e.g., reenlistment bonus);

d. A military occupational specialty which due to military exigencies requires retention; or

e. Become indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reductions in grade, and fines and

forfeitures. However, an individual Marine may be considered eligible for early separation provided the individual makes a cash remittance before the initiation of separation processing.

6407. DEPENDENCY OR HARDSHIP

1. General. The CMC and the GCMCA may direct the separation of enlisted Marines for dependency or hardship. Application from Marines who have been granted temporary additional duty with a unit for the purpose of applying for this type of separation will be forwarded to the CMC (MMSR-3) for consideration. Marines granted Permissive Temporary Additional Duty (PTAD) to a unit for humanitarian reasons and subsequently request a hardship discharge will continue to submit this request to the CMC (MMEA 86) for consideration per paragraph 1301 of MCO P1000.6G (ACTSMAN). The CMC (MMEA 86 and MMSR-3) will determine if the request meets humanitarian/hardship discharge criteria.

2. Criteria. Separation may be directed when genuine dependency or undue hardship exists under the following circumstances:

- a. The hardship or dependency is not temporary;
 - b. Conditions have arisen, or have aggravated, to an excessive degree since entry into the Marine Corps and the Marine has made every effort to remedy the situation;
 - c. The administrative separation will eliminate or materially alleviate the condition; and
 - d. There are no other means of alleviation reasonably available.
3. Undue hardship does not necessarily exist because of altered present or expected income, family separation, or other inconveniences normally incident to military service.
- a. Separation will not be authorized for personal convenience alone; when the Marine requires medical treatment; or solely by reason of the Marine's wife being pregnant.
 - b. Separation will not be disapproved solely because the Marine's services are needed in the unit or because the Marine is indebted to the Government or to an individual. All attempts should be made to collect the debt before separation, if this will not place further hardship on the Marine.

4. Application. The Marine's request consists of two parts, a statement of the circumstances and substantiating documentation, as explained below.

- a. The Marine must submit a statement containing the following:
 - (1) Reason for Request. The clearer the "picture" of the situation the Marine provides, the greater the likelihood a proper decision will be made. It would be helpful to address the criteria in paragraph 6407.2;
 - (2) Complete home address of the family member and the Marine;
 - (3) The Marine's marital status, date of marriage, and number of family members;

(4) Names and addresses of persons familiar with the situation;

(5) Names, ages, addresses, and occupations of all immediate family members and reasons why they cannot provide the necessary help (if deceased indicate date of death); and

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(6) If the request is based on the financial difficulties of a Marine's family member(s), provide statements of both income and expenses, and assets and liabilities of that (those) family member(s). Assets will include a listing of all property, securities, and funds owned except clothing and household furnishings. For this type of request, also provide a statement of the Marine's own financial obligations including specific amounts and methods of past and current contributions/allotments to the family member(s).

b. The Marine must submit substantiating documentation as enclosures to the request.

(1) Where practicable, statements must be submitted from the family members concerned. If applicable, indicate the status of parents (unmarried, divorced or widowed). The intent is on quality of information provided, not quantity.

(2) If dependency or hardship is the result of a family member's death, provide a certificate or other proof.

(3) If dependency or hardship is the result of a family member's disability, provide a doctor's statement showing when the disability occurred, the nature of the disability, probable duration, and the requirement for the service member to medically assist the family member.

5. Commander's Action. Marines who meet the criteria above, have completed a statement, and gathered the substantiating documentation may submit an application via the chain of command, or, if on temporary additional duty for the purpose of applying for separation, may submit the application to the CMC (MMSR-3). The Marine's immediate commanding officer will ensure that all the criteria have been clearly met, that the information contained in the request is accurate, and by endorsement will provide:

a. A definite recommendation for approval or disapproval with justification. If a Marine is requesting either an extension, PTAD, humanitarian transfer, or hardship discharge, the command will make a definite recommendation with justification;

b. The Marine's normal EAS, EOS, and date the Marine's current enlistment began;

c. Status of any disciplinary action pending. Disciplinary action must be resolved before separation;

d. Effective date, amount, and purpose of all allotments (only if the hardship/dependency is because of financial difficulties). If the applicant claims to be making cash contributions, substantiating evidence should be furnished (e.g., money order receipts, copies of canceled checks);

e. Command endorsements will include a command point of contact with telephone number; and

f. Any other information deemed appropriate.

6. Dependency or Hardship Board. In most cases, the separation authority will approve or disapprove a Marine's request based solely upon the documentation provided by the Marine. However, in the event the separation authority determines the circumstances of a particular case warrant its referral to a board, the Marine commander exercising special court-martial

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jurisdiction over the Marine will appoint a board, consisting of not less than three members that are senior to the applicant before whom the Marine will appear. This board shall consist entirely of military personnel. It will be the responsibility of the board to study and evaluate all available information, interview the Marine, and make recommendations concerning the ultimate disposition of the case. The report of the board will include a brief summary of any factors considered in arriving at its recommendations which are not apparent in the application. The authority to appoint a board may be limited by higher authority when such action is deemed desirable (e.g., when one board may conveniently consider all cases in a larger command). Marines who have been granted temporary additional duty with a unit for the purpose of applying for a hardship discharge will not be provided the opportunity to appear before a hardship board due to the time constraints in which the request must be resolved.

7. Separation Authority. Upon receipt of the Marine's request, the separation authority will take the following action:

a. Carefully and sympathetically review the request.

b. Request supplemental information if needed to make a proper determination.

c. If the case has not been considered by a board and one is considered vital, appoint a board to consider the case as outlined in paragraph 6407.6.

d. If the Marine's discharge is warranted, take final action regardless of the board's recommendation. If the Marine is discharged, place the hardship request and supporting papers on the document side of the service record, and forward it with the health and dental records per MCO P1070.12.

e. If the Marine's discharge is not warranted, the separation authority will officially inform the member in writing and include the specific reason or reasons for disapproval. Some statement expressing sympathy and/or providing advice for the Marine to help alleviate the problem should be included.

f. At any time before final action, the Marine may submit a statement withdrawing the request for discharge.

8. Separation. If warranted, follow these procedures for separating the Marine.

a. If the Marine to be separated has a home of record in the CONUS, then

(1) Commands located in the CONUS will effect the separation locally;
or

(2) Commands located outside the United States will transfer the Marine concerned to the Marine Corps activity nearest the point to which transportation is authorized.

b. If the Marine to be separated has a home of record outside the CONUS and is entitled to and elects transportation to a point outside the United States upon separation, the Marine will be transferred to the Marine Corps activity nearest the point to which transportation is authorized. See paragraph 1006.

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6408. PREGNANCY

1. An enlisted woman whose pregnancy has been certified by a medical officer must notify her commanding officer in writing if she desires separation.

2. Requests for separation will not receive favorable consideration unless there are extenuating circumstances or the request otherwise complies with criteria in paragraph 6407 of this Manual.

3. The following criteria will dictate retention except in the most extraordinary of circumstances:

- a. Executed orders in the known pregnancy status;
- b. Received fully funded education; or education for which she incurred obligated service;
- c. Completed advanced technical training;
- d. Received special compensation, during the current enlistment (e.g., reenlistment bonus);
- e. Holds a military occupational specialty which requires retention; or
- f. Indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reductions in grade, and fines and forfeitures. However, an individual Marine may be considered eligible for early separation provided the individual makes a cash remittance before the initiation of separation processing.

4. Regardless of the limitations in paragraph 6408.3, a request for separation may be approved by the separation authority, on a case-by-case basis, when the request demonstrates overriding and compelling factors of personal need which justify separation for pregnancy, i.e., continuation on active duty would jeopardize the health of the Marine and/or the child.

5. The forms in figure 6-4 will be used for informing female Marines of their eligibility for maternity care.

6. Female Marines should be notified that single or dual service parents are required to complete a family care plan per MCO 1740.13A.

7. The prohibition of pregnancy discharges within 4 weeks of delivery, as mandated in MCO 5000.12D, does not apply to voluntary requests for separation. However, the Marine requesting voluntary separation must be advised of her rights and medical benefits available after discharge. A page 11 entry relating these facts must be made in the SRB and signed by the Marine.

6409. CONSCIENTIOUS OBJECTION. Process per MCO 1306.16E.

6410. SURVIVING FAMILY MEMBER. ~~Process per DoD Directive 1315.15 for~~
~~"Survivorship."~~ General. (Reference is DODDir 1315.15). The CMC may direct
the separation of enlisted Marines for survivorship. Applications from
Marines will be forwarded to the CMC (MMSR-3) via the chain of command for
consideration.

2. Definition. Surviving Family Member refers to any son or daughter in a family in which the father or mother or one or more sons or daughters:

a. Have been killed in action or have died when serving in the U.S. Armed Forces from wounds, accident, or disease;

b. Are in a captured or missing-in-action status; or

c. Have a permanent 100 percent Service-related disability (including 100 percent mental disability), as determined by the Veteran's Administration or one of the Military Services.

3. Eligibility. Enlisted Marines who become surviving sons or daughters after having enlisted or after having been inducted may apply for and shall be promptly discharged or separated except:

a. When the Marine has court-martial charges pending, has been convicted by court-martial with appellate review in process, or is serving a sentence of confinement (or is otherwise undergoing punishment) imposed by court-martial.

b. When the Marine is pending involuntary administrative separation for cause.

c. During a war or national emergency declared by Congress.

4. Application. The Marine's request must contain a statement of the circumstances and substantiating documentation, as explained below. The Marine must submit a written request containing the following:

a. An affirmative statement that he/she is a sole surviving son or daughter.

b. Full name, grade/rating, branch of service, service number/SSN, date of birth of each member of the Marine's family killed, captured, missing in action, or permanently disabled as a result of hazards incident to service in the Armed Forces together with documentation as to the date of such occurrence. In the cases of persons other than those killed, the person's present status, e.g., where captured, VA hospital locations, etc., and in cases of natural death, a photostatic copy of proof of death will be required.

5. Commander's Action. Marines who meet the criteria above, have completed a statement, and gathered the substantiating documentation may submit an application via the chain of command to the CMC (MMSR-3). The Marine's immediate commanding officer will ensure that all the criteria have been clearly met, that the information contained in the request is accurate, and by endorsement will provide:

a. A definite recommendation for approval or disapproval with justification;

b. The Marine's EAS, EOS, and date the Marine's current enlistment began;

c. Status of any disciplinary action pending. Disciplinary action must be resolved before separation;

d. Command endorsements will include a command point of contact with telephone number; and

e. Any other information deemed appropriate.

6. The separation authority will approve or disapprove a Marine's request based solely upon the documentation provided by the Marine.

7. At any time before final action, the Marine may submit a statement withdrawing the request for discharge.

8. Characterization and Separation Authority. The separation will be characterized according to standard procedures. The Reenlistment code assigned will normally be RE-3C, "Directed by CMC", and a Service Record Book entry will be made stating the reason for assignment. CMC authority is required for reenlistment. The separation authority is CMC (MMSR-3).

9. Marines in the Individual Ready Reserve may request to be transferred to the Inactive Status List by submitting a written request to the CMC, MMSR-5, 3280 Russell Road, Quantico, VA 22134-5103 via the Commanding General, Marine Corps Reserve Support Command, 15303 Andrews Road, Kansas City, MO 64147-1207.

6411. OFFICER CANDIDATE DISENROLLMENT. Officer candidates may submit a written request to the CG, MCRC (MRO) for voluntary disenrollment from any of the Marine Corps Officer Candidate Programs. Discharge is authorized only if the candidate did not incur, or does not have, any service obligation.

6412. NOT SELECTED FOR PROMOTION TO STAFF SERGEANT

1. Sergeants may request discharge before their EAS after their commander verifies they have twice failed selection for promotion. The Marine must acknowledge in the request that the unearned portion of any reenlistment bonuses will be recouped. Commanders should advise Marines electing this option that separation pay entitlements may be affected. Separation pay authority and entitlement resides with the CMC (MMEA-6). Sergeants deleted from the selection list for any reason, including misconduct, are considered passed for promotion.

2. Approval or disapproval of the request will be based on the needs of the Marine Corps. Marines serving a dependents restricted tour may not be discharged under this provision.

3. Assign an RE-1B reenlistment code to Marines discharged under this provision unless another reenlistment code is directed by the CMC.

4. Requests will not receive favorable consideration if the Marine has:

- a. Received fully funded education, or education for which the Marine incurred obligated service;
- b. Completed advanced technical training;
- c. Received special compensation during the current enlistment;
- d. A military occupational specialty which, due to military exigencies, requires retention; or
- e. Become indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reductions in grade, and fines and forfeitures. However, an individual Marine may be considered eligible for early separation provided the individual makes a cash remittance before the initiation of separation processing.

5. Authority to grant separation pay (full, half, not entitled) and eligibility to transfer to the IRR will be issued via a unit diary history statement when the separation is approved.

6413. REDUCTION FROM SNCO TO SERGEANT OR BELOW

1. A Marine may request discharge after the commanding officer verifies he or she has been reduced in grade from a staff noncommissioned officer to sergeant or below. The Marine must acknowledge in the request that all unearned portions of any reenlistment bonuses will be recouped.

2. Approval or disapproval of the request will be based on the needs of the Marine Corps.

3. Assign an RE-3C reenlistment code to a Marine discharged under this provision unless another reenlistment code is directed by the CMC (MMSR).

4. Requests will normally be denied if the Marine has:

a. Received fully funded education, or education for which the Marine incurred obligated service;

b. Completed advanced technical training;

c. Received special compensation during the current enlistment (e.g., reenlistment bonus);

d. A military occupational specialty which due to military exigencies requires retention; or

e. Become indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reductions in grade, and fines and forfeitures. However, an individual Marine may be considered eligible for early separation provided the individual makes a cash remittance before the initiation of separation processing.

6414. RESERVIST BECOMES A MINISTER

1. A Reserve Marine not on active duty who has become a regular or duly ordained minister of religion or who desires to take final vows in a religious order may submit a request for discharge via the chain of command to the CMC (MMSR). The following definitions apply.

a. Regular minister of religion. A person whose customary vocation is teaching and preaching the religious principles of the person's church or religious organization without having been formally ordained as a minister of religion, but who is recognized by such church, sect, or organization as a regular minister.

b. Duly ordained minister of religion. A person who has been ordained in accordance with the ceremonial ritual or discipline of a church, religious sect, or religious organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies in public worship, and who as a regular and customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed of principles of such church, sect, or organization.

c. The above definitions do not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or religious organization even though the person may have been duly ordained a minister in accordance with the ceremonial ritual or discipline of a religious group.

2. If the Reservist is a regular or duly ordained minister of religion as defined above, the request for discharge must be accompanied by a statement or

certificate from an appropriate official of the religious order attesting to that fact.

3. If the Reservist desires to take final vows in a religious order, the request for discharge must be accompanied by a statement or certificate from an appropriate official of the religious order showing that in order to proceed further with the Reservist's acceptance into the religious order, separation under this basis requires that the Reservist be discharged from the Marine Corps.

6415. TRANSFER TO THE NAVY HOSPITAL CORPS. A Marine may request transfer to the Navy Hospital Corps. This program requires prior experience in the medical field. Applications should include proof of education and training.

6416. MARINES MARRIED TO OTHER SERVICE MEMBERS

1. A Marine may submit a request for separation provided all of the following conditions are met:

a. Not stationed near enough to their service member spouse to permit the maintenance of a joint residence;

b. A transfer request to the same or nearby duty station has been submitted by the Marine to the CMC (MMEA) and the request has been denied. If both individuals are Marines, both must have requested and been denied transfer to the same or nearby duty station;

c. The spouse's separation has exceeded 18 months or, if one is serving overseas, is assigned there on the shortest "all others" tour as specified in MCO P1300.8R;

d. The Marine is not serving on an extension of service entered into after the marriage; and

e. The Marine has completed 24 months service following completion of a service school if the length of the course was in excess of 20 weeks.

2. Requests will not receive favorable consideration if the Marine has:

a. Received fully funded education, or education for which the Marine incurred obligated service;

b. Completed advanced technical training;

c. Received special compensation during the current enlistment (e.g., reenlistment bonus);

d. A military occupational specialty which due to military exigencies requires retention; or

e. Become indebted to the Government as a result of unearned leave (advance and excess leave), advance pay, reductions in grade, and fines and forfeitures. However, an individual Marine may be considered eligible for

early separation provided the individual makes a cash remittance before the initiation of separation processing.

3. Only one of the individuals may be separated under this provision.

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6417. TRANSFER TO THE NAVY AS A RELIGIOUS PROGRAM SPECIALIST. A Marine may request transfer to the Navy as a religious program specialist. This program requires prior experience as a chaplain's assistant and recommendations from a chaplain submitted directly to the Chief of Naval Personnel.

6418. SEPARATION OF SELECTED MARINE CORPS RESERVISTS IN THE DELAYED ENTRY PROGRAM (DEP)

1. Selected Marine Corps Reservists in the DEP may be voluntarily discharged if:

a. The discharge is requested by the member;

b. None of the provisions for entry level separation contained in section 2 of this chapter apply;

c. The reason for the requested discharge is:

(1) Permit return/or retention in school;

(2) Member moves to a location where participation in the Selected Marine Corps Reserve would be impractical; or

(3) Cogent personal reason determined to be legitimate by the district director.

2. Discharge under this provision may be effected by the district director and will be uncharacterized. The district director will notify the inspector-instructor or site commanding officer of the Reserve unit to which the enlistee is, or would have been, assigned of the discharge and cite this paragraph as authority for the separation.

6419. SEPARATION IN LIEU OF TRIAL BY COURT-MARTIAL

1. A Marine may be separated upon his or her request in lieu of trial by special or general court martial if charges have been preferred with respect to an offense for which a punitive discharge is authorized and it is determined that the Marine is unqualified for further military service. This provision may not be used as a basis for separation when the current version of the Manual for Courts Martial provides the sole basis for a punitive discharge unless the charges have been referred to a court-martial authorized to adjudge a punitive discharge.

2. Characterization of service normally shall be under other than honorable conditions, but characterization as general (under honorable conditions) may be warranted in some circumstances. Characterization as honorable is not authorized for a Marine who has completed entry level status unless the Marine's record is otherwise so meritorious that any other characterization clearly would be inappropriate. When characterization of service under other

than honorable conditions is not warranted for a Marine in entry level status, the separation shall be described as uncharacterized.

3. Procedures

a. The request for discharge shall be submitted in writing and signed by the Marine.

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b. The Marine shall be afforded an opportunity to consult with qualified counsel. If the member refuses to do so, the commanding officer shall prepare a statement to this effect which shall be attached to the file, and the member shall acknowledge the waiver of the right to consult with counsel.

c. Unless the Marine has waived the right to counsel, the request shall also be signed by counsel.

d. In the written request, the Marine shall state that the following is understood:

(1) The elements of the offense(s) charged;

(2) That characterization of service under other than honorable conditions is authorized; and

(3) The adverse nature of such characterization and possible consequences.

e. The request shall also include:

(1) An acknowledgment of guilt of one or more of the offenses charged, or of any lesser-included offense, for which a punitive discharge is authorized;

(2) A summary of the evidence or list of documents (or copies) provided to the Marine pertaining to the offenses for which a punitive discharge is authorized; and

f. The separation authority is the GCMCA.

g. Statements by the Marine or the Marine's counsel submitted in connection with a request under this subsection are not admissible against the member in a court-martial except as provided by Military Rule of Evidence 410.

h. In cases where the separation in lieu of trial by court-martial is disapproved, there is no requirement to forward the request and supporting documents to the CMC (MMSB-20) for inclusion in the Marine's OMPF.

i. Conditional requests are not authorized. While a Marine may request the separation authority to consider a higher characterization than "under other than honorable conditions" no request will be conditioned upon receipt of a higher characterization. See paragraph 6419.3d(2).

6420. EARLY RELEASE FROM OVERSEAS UNITS. Marines scheduled to return from permanent overseas duty stations who are within 90 days of completing their active service obligation may request separation upon their return to CONUS or request separation overseas pursuant to guidelines set forth in paragraph 1006.4.

6421. SEPARATION IN THE BEST INTEREST OF THE SERVICE

1. The Secretary of the Navy, by use of secretarial plenary authority, may approve the voluntary separation of any Marine before the expiration of that Marine's term of service after determining that a separation is in the best interest of the Marine Corps.

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2. Use this paragraph for unusual cases not covered by any other provisions of this chapter.

3. The procedures set forth in paragraph 6214 apply.

4. Forward requests for separation under this paragraph to the Secretary of the Navy via the CMC (MMSR). Include a statement explaining the circumstances of the case and why no other reason for separation under this Manual is considered appropriate.

5. HIV-1. For voluntary separation for service members who test positive for the HIV-1 virus, refer to SECNAVINST 5300.30C.

6. Separation under this paragraph will be characterized as honorable or general (under honorable conditions) unless an uncharacterized entry level separation is required.

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Figure 6-4. Notification of Eligibility for Maternity Care

(Letterhead)

From: Commanding Officer
To: (Individual Marine)

Subj: ELIGIBILITY FOR MATERNITY CARE

1. In view of the fact that you are being separated from the Marine Corps for pregnancy, you are eligible for medical care and surgical care incident to pregnancy. This care includes prenatal, delivery, and postnatal care at Armed Forces medical facilities subject to the availability of space and facilities. CIVILIAN MEDICAL CARE AND HOSPITALIZATION IS NOT AUTHORIZED AT GOVERNMENT EXPENSE.

2. In making an application for maternity care, you should present your original discharge certificate or a photostat of it and a copy of your DD Form 214. You should register at a military medical activity where suitable facilities are available at least 30 days before the anticipated date of delivery. In areas where more than one military facility providing maternity care is available, you must apply to the Naval Medical Facility.

3. The Department of the Navy assumes responsibility for care of the child only during your hospitalization. Further arrangements for the care of your child must be made by you. If you contemplate release of your child for adoption, all arrangements must be made by you with local authorities in advance of hospitalization. Local Red Cross and public welfare activities are available to advise you in such matters.

4. The provisions of this document do not apply to family members.

(Signature)

(Letterhead)

From: (Individual Marine)
To: Commanding Officer

Subj: ELIGIBILITY FOR MATERNITY CARE

1. I understand that medical care after my discharge is available only at Armed Forces medical facilities and that civilian medical care will not be paid for by the Government for my pregnancy unless I am otherwise eligible.

(Signature)

Figure 6-4. Notification of Eligibility for Maternity Care

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Figure 6-5. Sample Request for Early Release to Further Education

(Letterhead)

From: (Marine's Grade, Name, SSN, and MOS)
To: General Court-Martial Convening Authority
Via: (Chain of Command)

Subj: EARLY RELEASE TO FURTHER EDUCATION

Ref: (a) MCO P1900.16F

Encl: (1) Unqualified acceptance notification
(2) Proof of necessary tuition funds

1. Per the reference, I request an early release to further my education and provide the following information:

a. Enclosure (1) is my unqualified acceptance at _____. (List school's name and complete mailing address. Include telephone number if known.)

b. Tuition will be paid by _____ (list one of the following: VEAP; New GI Bill; self; parents; student loan; other) as indicated in enclosure (2). (Examples of proof may be: LES; scholarship letter; savings statement; etc.)

c. Type of degree being sought is a(n) _____. (List one of the following: associate's; bachelor's; master's; technical/vocational; police/fireman certification.)

d. Latest possible date to register this term is _____.

e. Class convening date this term is _____.

f. Class convening date next term is _____.

g. Full-time status at this school is _____. (List the school's minimum number of credit hours per semester, quarter or term considered to be a full-time student, excluding evening classes. In the case of police/fire training academies, list the course length.)

h. (List marital status.)

i. I desire release on _____. This is the most academically opportune time for me to attend school because _____ (list reason(s)).

2. I understand that if I am granted an early release, failure to attend school may result in my recall to active duty and/or prosecution for fraudulent separation.

(Marine's signature)

Figure 6-5. Sample Request for Early Release to Further Education

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Figure 6-5. Sample Request for Early Release to Further Education - Continued

(Letterhead)

FIRST ENDORSEMENT ON (SNM'S LETTER/AA FORM) OF (DATE)

From: (Unit)

To: General Court-Martial Convening Authority

Via: (Chain of Command)

Subj: EARLY RELEASE TO FURTHER EDUCATION OF (SNM)

Ref: (a) MCO P1900.16F, par. 6405

1. Per the reference, the following is submitted:

a. SNM's EAS is _____.

b. SNM's PEBD is _____.

c. SNM's in service Pro/Con marks are ____/____.

d. SNM (is) (is not) command essential.

e. SNM does not have any obligation to the Marine Corps per paragraph 6405.2e. (If SNM is obligated, list obligation(s) recommending approval or disapproval.)

f. SNM's leave balance: current _____; anticipated at time of release.

g. SNM is eligible for an honorable discharge.

h. SNM is not seeking early release to avoid service.

2. POC at this unit is _____ at DSN # _____.

3. I (do) (do not) recommend SNM for early release on (See note).

4. SNM is currently assigned to UDP. (Give estimated date of return to CONUS.)

(Signature)

Note: The CO may request a preferred date of release due to operational commitments and present any other information concerning SNM's request.

Figure 6-5. Sample Request for Early Release to Further Education - Continued

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Table 6-3. Separation Authority for Voluntary Separations - Active Duty

If the Marine is:	And the General Basis for Separation is:	And the Specific Basis for Separation is:	Then the Separation Authority is:
On Active Duty	Defective Enlistment/Reenlistment	Defective Enlistment/Reenlistment	CMC (MMSR)
	Convenience of the Government	Early release to further education	GCMCA
		Early release to accept public office; not selected for promotion to SSgt; reduction from SNCO to Sgt or below; Marine married to other service member; Change in service obligation (par. 6404.1)	CMC (MMSR)
		Dependency/Hardship	CMC (MMSR) and GCMA
		Conscientious Objector	CMC (MM)
		Surviving Family Member	CMC (MMEA)
		Pregnancy	CMC (MMSR); GCMCA; recruiting district commanding officers; commanding officers of separate commands who have special court martial convening authority

Table 6-3. Separation Authority for Voluntary Separations - Active Duty

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Table 6-3. Separation Authority for Voluntary Separations - Continued
Reservist on Inactive Duty

If the Marine is:	And the General Basis for Separation is:	And the Specific Basis for Separation is:	Then the Separation Authority is:
A Reservist; on Inactive Duty	Defective Enlistment/Reenlistment	Defective Enlistment/ Reenlistment	CMC (MMSR)
	Convenience of the Government	Not selected for promotion to SSgt, reduction from SNCO to Sgt or below, Reservists becomes a minister, Marine married to other service member	CMC (MMSR)
		Dependency/Hardship	CMC (MMSR); COMMARFORRES
		Pregnancy	CMC (MMSR); GCMCA; recruiting district commanding officers; commanding officers of separate commands who have special court martial convening authority
		Change in Service Obligation	COMMARFORRES; recruiting district commanding officers; CG MCRSC; commanders of SMCR units
An Officer Candidate	Convenience of the Government	Officer Candidate Disenrolls	CG, MCRC (MRO)

Table 6-3. Separation Authority for Voluntary Separations - Continued
Reservist on Inactive Duty

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